

March 2018

# The Santa Clara County Jail System

History and Status of the  
Sheriff's Reforms

Gr\*A\*R, Inc.  
CRIMINAL JUSTICE CONSULTING

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## INTRODUCTION

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Most people understand that a jail is a difficult place. They are a difficult place for people to live in and manage. Jails are costly to build and operate, but rarely do they create the sorts of good news that elected officials like to brag about. Jail administrators end up caught between marginal funding levels and constant demands for improved conditions. And in the community, many people think all inmates are criminals who deserve to be there, or even worse, a place where someone can “be thrown in jail for a few days to teach them a lesson.” It has only been in the past couple of decades that jails have begun to draw attention, mostly due to litigation that has filtered down from the prison systems but also from research efforts to help shape law and practice that improve jail conditions and outcomes.

Among the incarcerated population in any given jail there are murderers, traffic offenders and every class of offender in between. If America is the melting pot of cultures and ethnicities, jails are the melting pot of those who range from being criminally psychotic to those who committed an impulsive theft or forgot to show up in court. While almost all jails keep those classes of inmates separated, more often than not, the structure and fundamental conditions of the jail cause all inmates to be treated somewhat similarly.

The vast majority of jails in the United States were built years, or even decades, ago with few amenities for inmates. They have historically been thought of as short-term facilities where offenders would only be incarcerated an average of a few days or weeks. That has led to small spaces, little natural light, few recreation facilities and very few recidivism reduction programs. Across the nation, that dynamic is changing and the line between jails and prisons is blurring.

The Santa Clara County Jail, also known as the Department of Correction or the Sheriff’s Custody Bureau, has undergone significant changes in the past decade with two events that are most notable in changing its course. First in 2010, while the county was experiencing the economic recession, the Department of Correction was reorganized from an independent entity under the Board of Supervisors to a Bureau within the Sheriff’s Office. That brought about cultural and resource challenges that continue to this day.

Then in 2015, three deputies killed an inmate by using excessive force to the point that it caused internal bleeding. That brought about a veritable tidal wave of scrutiny, criticism, outrage and attention to the policies, practices and conditions in the jail. Few days, if any, have passed in the last thirty-two months where there has not been significant time and attention put forth to identify what should be improved in the jail and, once identified, to change it.

This report will distill thousands of pages of information and points of data, hundreds of interviews and a significant amount of other information to inform and educate the reader on what changes were planned, what progress has been made and what effect the changes have

had. This summary is not meant to be a gap analysis of what is wrong. It is meant to provide a perspective on the personal commitment, the thousands of hours of time and the millions of dollars that have been invested by Sheriff Smith, the Board of Supervisors and the many other people who have been involved - and continue to be involved - in improving the jail and the environment for staff and inmates.

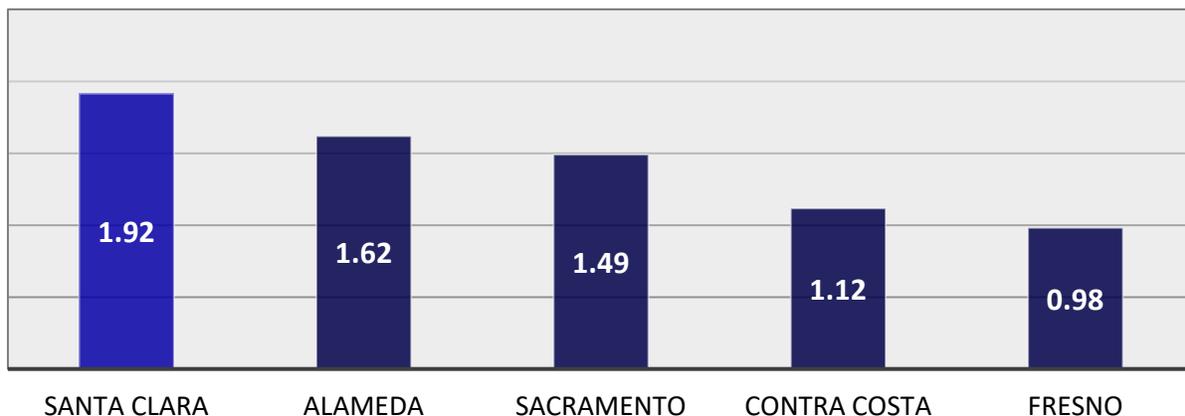
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## SANTA CLARA COUNTY

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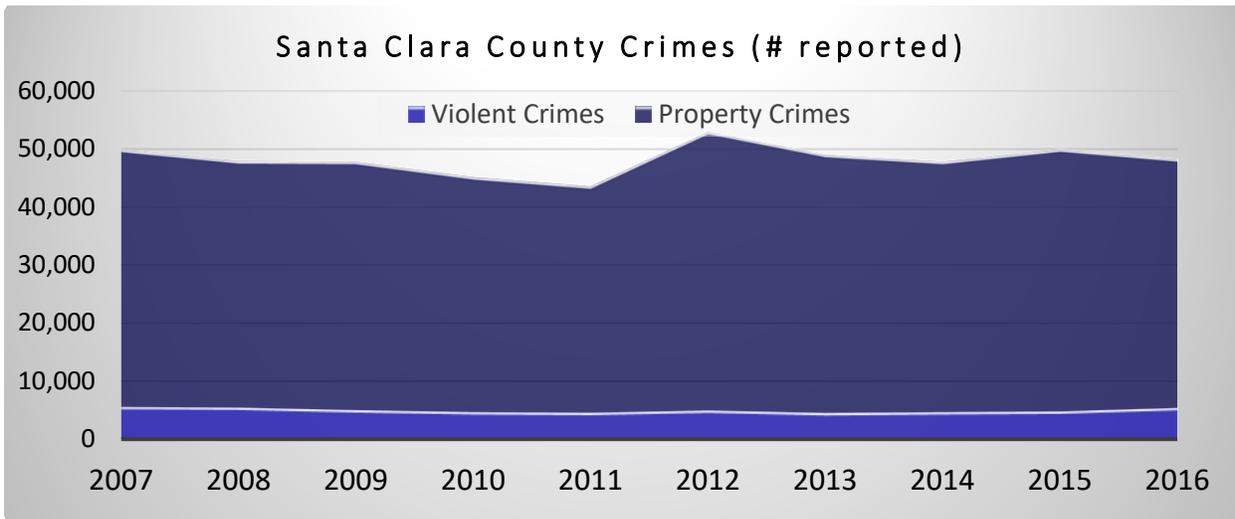
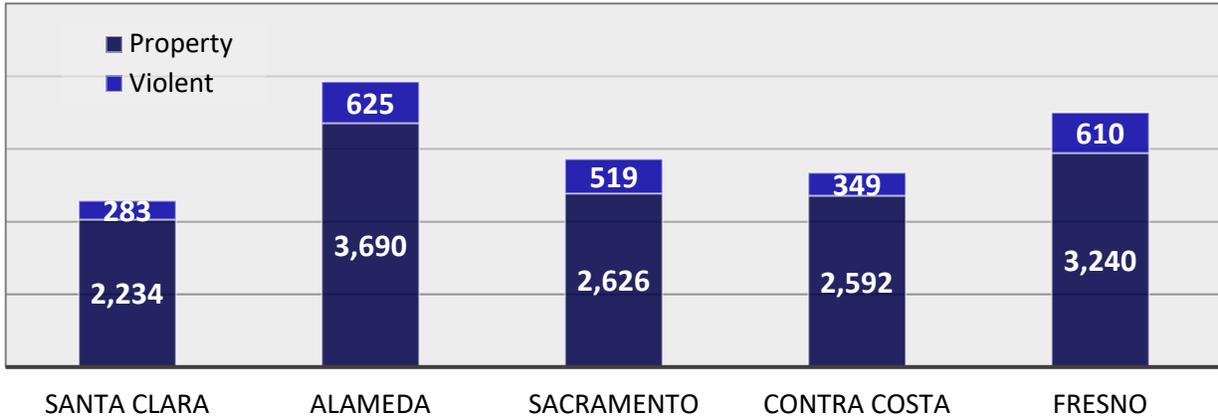
Santa Clara County was established with California statehood in 1850 and, with a total population of about 1.9 million people, is its sixth most populous county in the state. As the heart of the Silicon Valley, the county attracts and depends upon high-tech industries like Apple, E-Bay, Adobe, Cisco and others. That technology has led to considerable wealth and Santa Clara County has been listed as one of the most affluent counties on the west coast, with the highest median income of any county in California.

County Population in Millions (2016 CADOJ)



Luckily, the rise in affluence has not led to a significant crime problem. The California Department of Justice crime data for 2016 shows that Santa Clara County had the lowest crime rate amongst the four neighboring counties with similar populations: Alameda, Sacramento, Contra Costa and Fresno counties. For this report, we have focused on comparisons to these four counties as the most similar to Santa Clara. California counties with greater populations than Santa Clara, such as San Bernardino, Riverside, Orange, San Diego and Los Angeles counties, have economic, demographic and other characteristics that make them a less realistic comparison. In fact, including these counties would likely have made Santa Clara County appear disproportionately positive in many of our statistical comparisons.

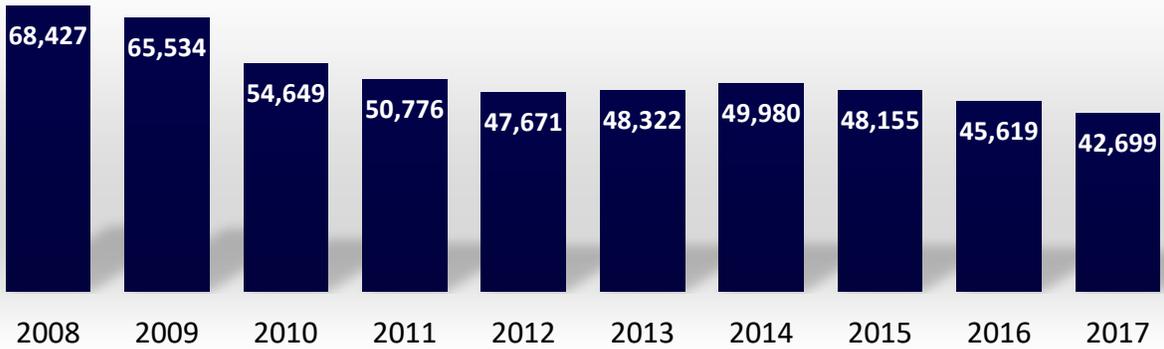
County Crime Rate  
(# per 100,000 population – 2016 CADOJ)



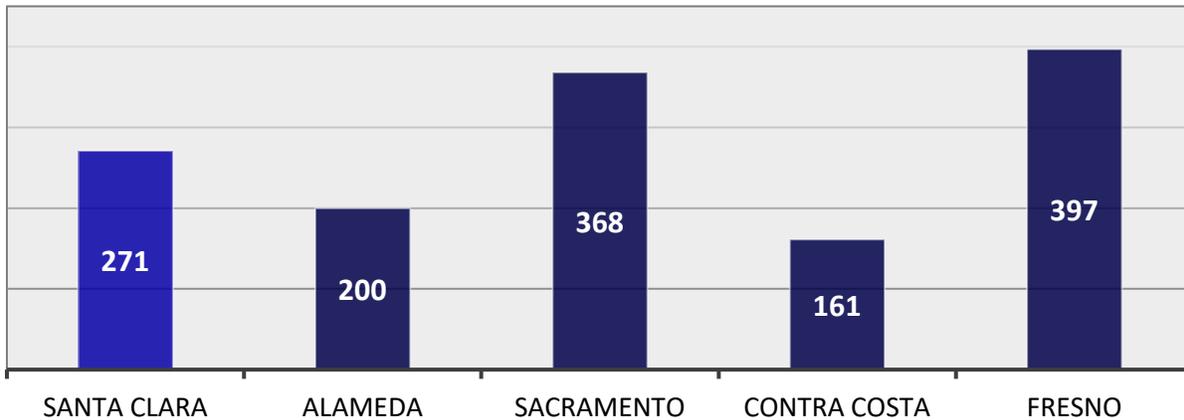
Not only is the crime rate relatively low in Santa Clara County, but over the past decade the frequency of crime has remained relatively level.<sup>1</sup> This has helped keep the jail population relatively low as well; however, the County has also been forward-thinking and proactive in managing the jail population on the front end. Santa Clara County implemented several progressive initiatives to divert people from jail, contributing to a steady decrease in the number of bookings. Santa Clara County was third among the four comparison counties in their rate of incarceration during 2015.

<sup>1</sup> California Department of Justice crime data

### Total Santa Clara Jail Bookings



### County Incarceration Rate (# per 100,000 population – 2015 Vera Institute)



Santa Clara County is continuing to expand existing initiatives and has new reforms underway, particularly pretrial release, which uses research and data to determine who should be in jail and who should not. With these progressive efforts, the jail population has been decreasing and it now at its lowest count in over ten years.

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## THE JAIL

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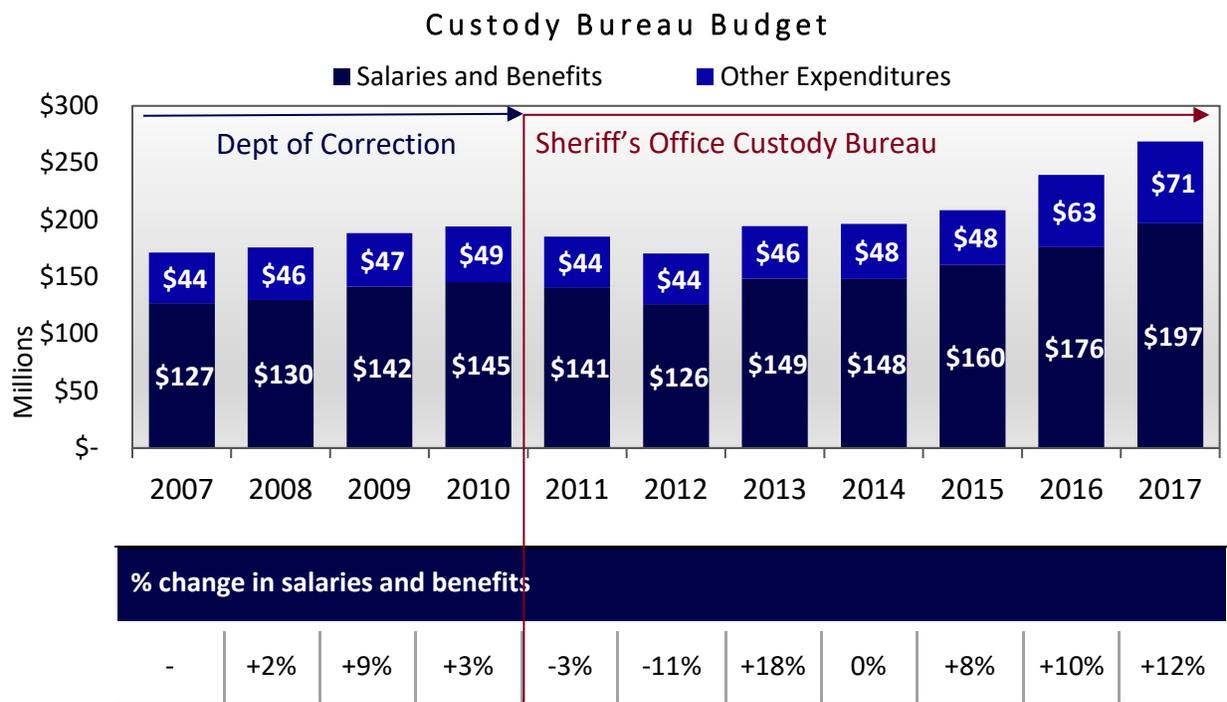
The Santa Clara County Jail is, and for decades has been, a very large and complex operation. About 43,000 people are booked in annually, and those who stay in custody live in a jail with a physical capacity of 4,500 beds. It is the fifth largest jail in California<sup>2</sup> and larger than 99% of jails

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<sup>2</sup> California Department of Justice, Santa Clara County Sheriff's Office

nationwide.<sup>3</sup> Over 800 deputies and 250 civilian personnel work in the jail, performing functions such as clerical, food service, medical, maintenance and of course, detention officer duties. It is a daunting task to lead such an operation under any circumstance, let alone while the state is undergoing changes that greatly impact incarceration at the county level.

Sheriff Laurie Smith has been serving as the elected sheriff since 1999. As she rose through the ranks, she worked in and around the jail until 1988, when the Department of Correction became a separate county entity, not under control of the Sheriff’s Office. In 2010, the county leadership had many reasons for wanting to change the oversight and structure of the jail, one of which was the financial impact of the economic recession. The Board of Supervisors and Sheriff Smith agreed that the jail would return to the sheriff’s authority, and at the same time, cut about \$10 million from the jail’s budget the first year and \$15 million more the following year.



At the time of the transition, Sheriff Smith did not want to simply deputize all the Department of Correction employees since many had not gone through the rigorous hiring and background check process of the Sheriff’s Office. The employees were given the option of applying for and

<sup>3</sup> United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. Annual Survey of Jails: Jail-Level Data, 2012. ICPSR34884-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2013-10-30. <https://doi.org/10.3886/ICPSR34884.v1>

passing the deputy hiring process, or remaining as correctional officers without the status as a deputy. Eventually, most became deputies but to this day, some still are not.

The transition was difficult. The sheriff needed to integrate two organizations, correct the budget issues in the jail and try to change the culture – all while receiving a jail budget that had just been cut by more than 12% in two years. At the same time, in a highly unusual arrangement, the Board of Supervisors maintained a line of authority over the jail by appointing a “Chief of Correction”, who reported directly to the Board, even though operational authority was under the sheriff.

The transition did not happen as easily or smoothly as anyone would have liked. Senior leadership in the Sheriff’s Office had entry level jail experience from when they were new employees, but they lacked technical knowledge of jail management because they had not been involved during the 22 years it was a separate entity. Leadership coming from the Department of Correction had jail experience, but many were not integrated with the Sheriff’s Office culture, policies, procedures, etc. The technical experience, education, training programs, supervision practices and other capacities of these two organizations have struggled to fully merge. They are not yet fully integrated but are much closer, and while the shared supervision model seems to be working for now, it will likely lead to issues of accountability in the future.

## CHANGING TIMES FOR THE SANTA CLARA JAIL

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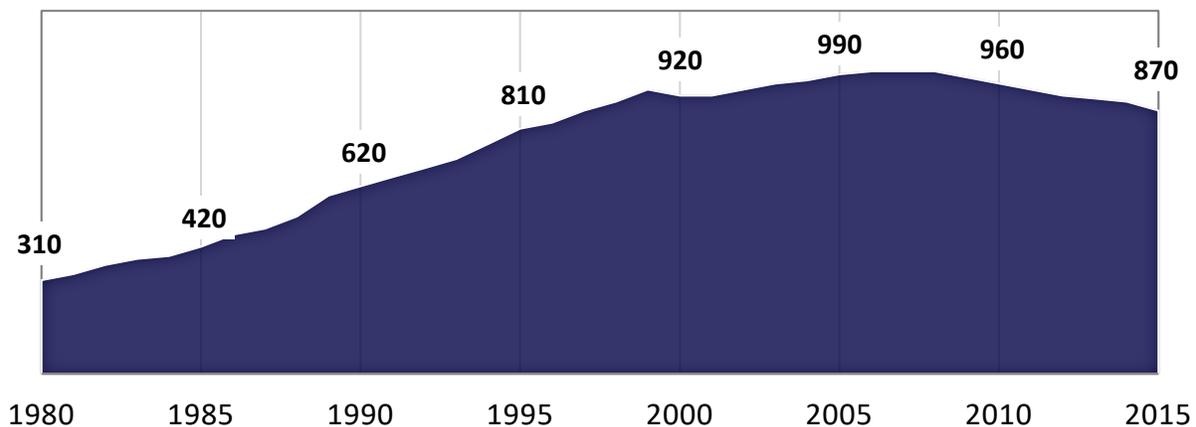
Many people are unaware of the difference between a jail and a prison. Generally speaking, jails are designed to hold inmates who are awaiting trial or those who have been found guilty and sentenced to minimal terms of incarceration, usually less than one year. Prisons, on the other hand, traditionally house inmates who are convicted of felony crimes and generally hold inmates who are sentenced to more than one year of incarceration. Prisons also traditionally provide more sophisticated rehabilitation programs that attempt to keep inmates from reoffending.

Over the past few decades, the lines between prisons and jails have been blurring as jails began receiving inmates with longer sentences and began providing more rehabilitation programs. Even so, in most jails, it is unusual to find inmates who have been in custody for more than about three years and those are often for violent felonies with more complicated cases that take longer to get to trial. Except in California.

In most states, sentencing laws are controlled largely by the state legislature – the same body that finds and approves funding for the state prison system. As legislatures have struggled with funding, more and more of them are finding alternatives to state prison. One of those alternatives is to keep more inmates in county jails, which shifts the cost of incarceration to the local level. In California, not only did the cost of incarceration motivate the legislature, but so did litigation on prison overcrowding.

As shown in the graphic below, national incarceration rates climbed dramatically beginning in about 1980, and continued to climb until about ten years ago when prison reform reached a tipping point. This tipping point coincides with the economic recession and suggests that cost reduction played a major role in advocating for change. The national reforms continue today with many efforts led by the federal government and non-profit organizations.

National Incarceration Rates  
(# in prison or local jail per 100,000 population - BJS)



California once led the nation with the well-known “three strikes, you’re out” mandatory sentencing laws, but eventually found them too expensive to fund. Also, California has a relatively active contingent of attorneys who drive change through litigation on class-level issues about prison and jail confinement. The Prison Law Office has been a significant driver of change in the case of Santa Clara County.

Jail conditions and costs have created an increased interest in research on the impact of laws, policies, procedures and programs, and how they can contribute to more positive outcomes. Research has helped states and localities better understand where their criminal justice practices may be overly punitive and it has helped guide sentencing alternatives, pretrial release programs, new concepts in probation services and other reforms. All of this has led to a continued decline in the national incarceration rate and an overall improvement in the conditions of confinement in jails and prisons.

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## CRIMINAL JUSTICE LEGISLATION

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In 2011, California took an unprecedented step to reduce the state prison inmate populations by passing Assembly Bills 109 and 117, now commonly referred to as “AB 109”. The legislation was touted as the answer to “close the revolving door of low-level inmates cycling in and out of state prisons.”<sup>4</sup> While good for the state prison population, these bills shifted tens of thousands of inmates from state prisons to the county jails or post-release systems similar to probation.

Then in 2014, California voters passed Proposition 47 to downgrade some felonies, like drug possession and minor property crimes, to misdemeanors. Proposition 36, passed in 2012, and Proposition 47 effectively eliminated the “three strikes” law. In the two years following the passage of Proposition 47, there was a 10.4% decrease in the statewide jail population. The chart on the following page, taken from the Public Policy Institute of California, shows the impact on jail incarceration rates by both AB 109, also known as realignment, and Proposition 47.<sup>5</sup>

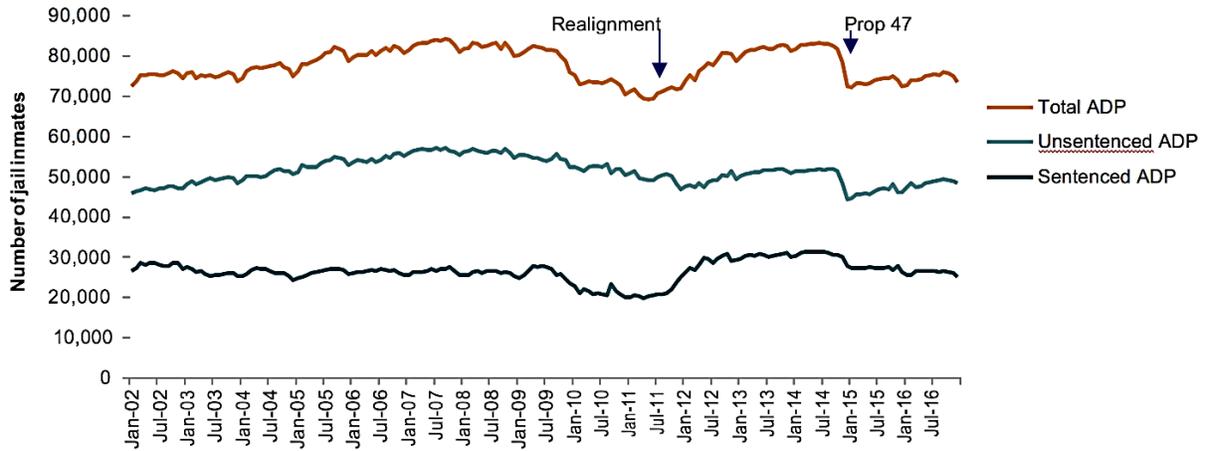
While AB 109 and Proposition 47 helped to lower jail populations, inmates are now staying a significantly longer time – something jails were not designed for when built. When inmates who are used to prison life are now placed into a much more confined and restricted jail environment, tensions tend to rise and manifest themselves in many ways. This often includes an increase in violence, organized gang activity and manipulation of the system by a more sophisticated class of inmates.

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<sup>4</sup> California Department of Corrections and Rehabilitation website

<sup>5</sup> Lofstrom, Magnus and Martin, Brandon. *California County Jails*. Public Policy Institute of California. November 2017

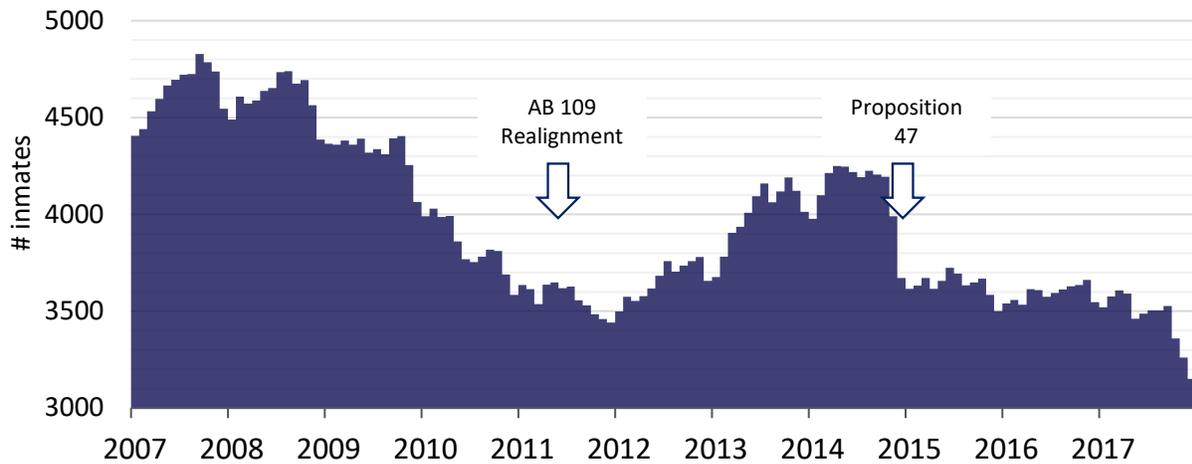
**County jail populations grew after realignment but dropped dramatically after Proposition 47**



**Source:** Jail Profile Survey, January 2002–December 2016, Board of State and Community Corrections.  
**Note:** ADP = Average daily population.

When AB 109 passed in 2011, it began dramatically changing jails in California, and Santa Clara was no exception. According to the California Department of Justice, between 2011 and 2013, California jail populations grew by 15.7% compared to only 2% for jails nationwide.<sup>6</sup> The Santa Clara County inmate population grew by 12.3% - commendable by California standards but almost shocking compared to other jails in the U.S.

**Impact of Legislation on Santa Clara Jail Population**  
(# of inmates by month for Jan 1, 2007 – Dec 31, 2017)



<sup>6</sup> Census of Jails: Population Changes, 1999-2013. US Department of Justice, Bureau of Justice Statistics. December 2015.

Then with Proposition 47, Santa Clara County experienced a significant 16% decrease in the inmate population similar to the rest of California. Since its passage, the inmate population has continued to drop; however, we cannot clap too loudly without considering the other effects of the changes. It is not just about the number of inmates, it is also about the severity of their behaviors.

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**AB 109 brought prison inmates into the Santa Clara County Jail and with them, came the problems that a more sophisticated criminal culture brings.**

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Violence in California jails has been increasing and many people believe much of it is attributable to AB 109 inmates. One study of California jails reported, “The number of inmate assaults on staff increased from 703 in the first nine months of 2011 to 1,074 in the same time period of 2014. During the first nine months of 2016, there were 1,375 inmate assaults on staff.”<sup>7</sup> Violence against jail staff essentially doubled in this 5-year period despite California’s inmate populations dropping with Prop 47 in 2015. As more sophisticated inmates with prison experience became a more significant part of the jail population, problems emerged. Gang influences became more significant. Experienced inmates knew the legal boundaries and how to push up against them. And, of course, more violent behaviors came with a more hardened and violent population. The jail stayed the same, but the low risk inmates were slowly replaced by more hardened, higher risk ones.

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**FACILITY OVERVIEW**

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The Santa Clara County Jail system has two core jail facilities – the Main Jail and Elmwood Correctional Complex. Much of the way a jail operates is dictated by the physical design of the buildings. Older facilities tend to have smaller cells along hallways, which means they are more staff intensive to supervise than more modern cell blocks where a deputy can easily observe activity from one place. Older jails also tend to lack natural lighting and recreation space that help lower stress, and updated environmental systems that make for more comfortable temperatures and clean air. Also, they usually have older furniture and fixtures, and what they have may break down more often or not be maintained as well as in a newer facility.

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<sup>7</sup> California’s County Jails. Public Policy Institute of California. November 2017.

## Main Jail

The “Main Jail Complex” in San Jose was originally founded in 1956 and has a physical capacity of 1,593 beds within the original facility, referred to as Main Jail South, and a newer facility constructed in 1987 called Main Jail North. While better designed than Main Jail South, Main Jail North is the most challenging facility to manage because it houses the inmates who are most dangerous, mentally ill, discipline problems or otherwise a higher risk. It is staff intensive to operate because it has eight stories and safety demands that enough deputies be on each floor at any given time to manage an emergency situation. Deputies must move between floors throughout their shift and be constantly aware of minimum staffing levels on each floor.

Some of Main Jail South has been decommissioned because it is impractical to renovate such an old building. It is typical of jails built in the 1950s with small corridors, very little natural lighting, poor accommodations and an overall design that does not lend itself well to modern inmate management and supervision. In 2009, the County commissioned a research study by MGT of America Consulting Group and their report read:

- “Main Jail North has now been in operation for 20 years and is beginning to reflect its age.”<sup>8</sup>
- “Main Jail South has seen its most useful life as a jail. Jail equipment, HVAC, electrical and plumbing systems have aged and deteriorated as could be expected for this 60-year-old building.”<sup>9</sup>

Almost ten more years of wear and tear on Main Jail South certainly confirms that it should be replaced as soon as possible. Plans are underway to demolish Main Jail South in 2019 and build a new jail facility in its place.

## Elmwood Correctional Complex

The “Elmwood Correctional Complex” in the city of Milpitas was originally founded in 1964 and has a physical capacity of about 3,100 beds, with about 500 of those for women. The Elmwood Complex houses the vast majority of the female inmates in the jail system. For both men and women, the Elmwood Complex is a lower custody facility than the Main Jail.

Even though Elmwood’s original housing areas were built long ago, most of the complex is newer and reasonably well designed to allow for staff interaction, inmate recreation and other

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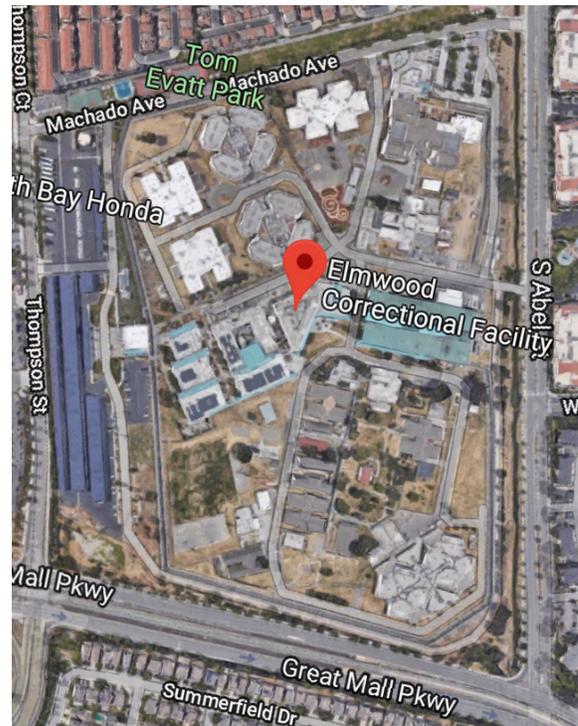
<sup>8</sup> MGT report, p 104

<sup>9</sup> MGT report, p 118

amenities. Inmates can be outside; there are even two garden areas for women to allow them personal, therapeutic time to think and reflect.

The difficulty of the Elmwood Complex is that it consists of more than two dozen buildings that sit on 62 acres, causing staff to spend a lot of time walking from place to place. Even shift change can take several minutes more than the Main Jail while employees walk to and from their work assignment areas.

Elmwood  
Correctional  
Complex



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## INMATE POPULATION MANAGEMENT

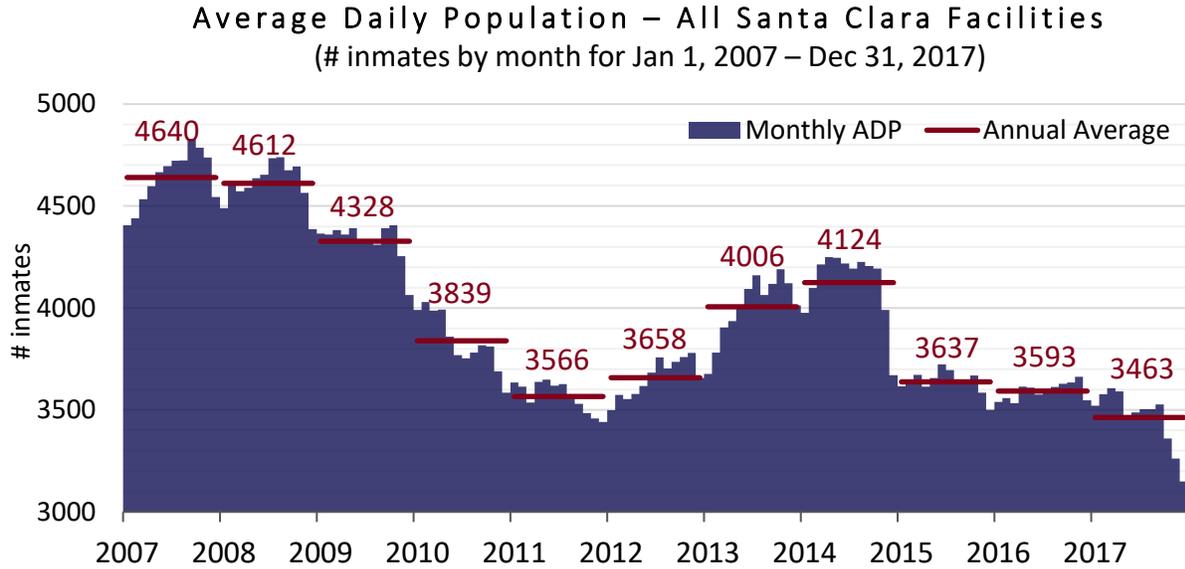
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### Average Daily Population

As mentioned, one of the statistics that most stands out about the Santa Clara County Jail is the decrease in the jail population. While other California counties and most of the nation, experienced significant growth in their incarcerated population over the past three decades, the Santa Clara County Jail had maintained a relatively flat population.

Santa Clara County has managed the inmate population well in the past ten years, and particularly well in the past three years with a 16% decrease in the inmate population. In 2009,

one consultant study estimated the inmate population in 2015 would be 4,643.<sup>10</sup> The actual population was 3,637 - almost a thousand inmates less than what was projected. Overall, Santa Clara experienced a 25% decrease between 2007 and 2017. This far outpaces most of the other counties in California and most of the rest of the nation.



### Average Length of Stay

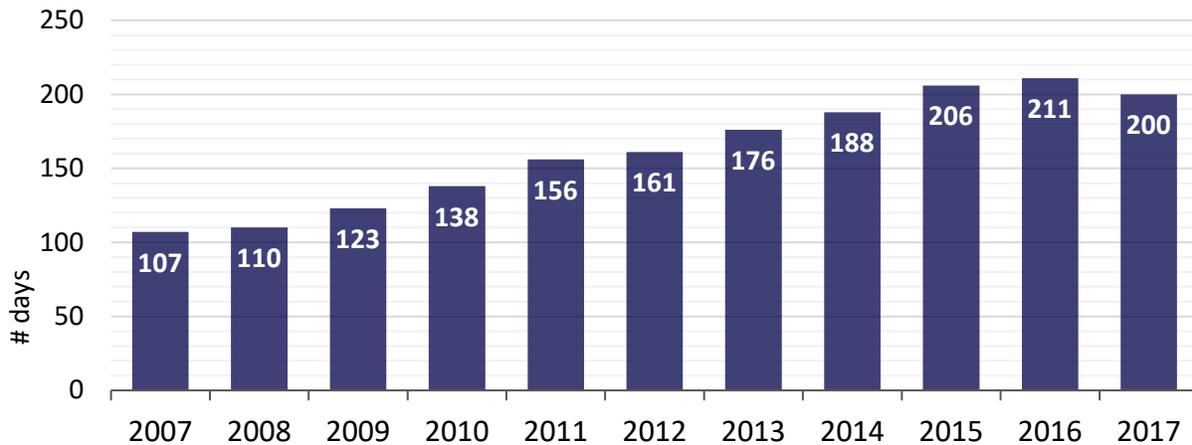
What must be considered though is another key metric of jails – *average length of stay*. The average length of stay is the average amount of time an inmate spends in custody. Over the past decade, the average length of stay in the Santa Clara County Jail has roughly doubled, from 107 days to 200 days. AB 109 inmates have contributed to this longer length of stay, but even now they represent only about one-sixth of the jail population. Other influences have also contributed to the increase. While data on these other factors are not readily available for Santa Clara County, in many jails the average length of stay is most often affected by the court process and how long it takes to get a defendant to trial and sentencing. It may be of value for the county to assess the long-term trends of the court process to determine if efficiencies can be realized.

Overall the good news about the Santa Clara County Jail is that less people are being held in jail each year – about one thousand less than ten years ago.

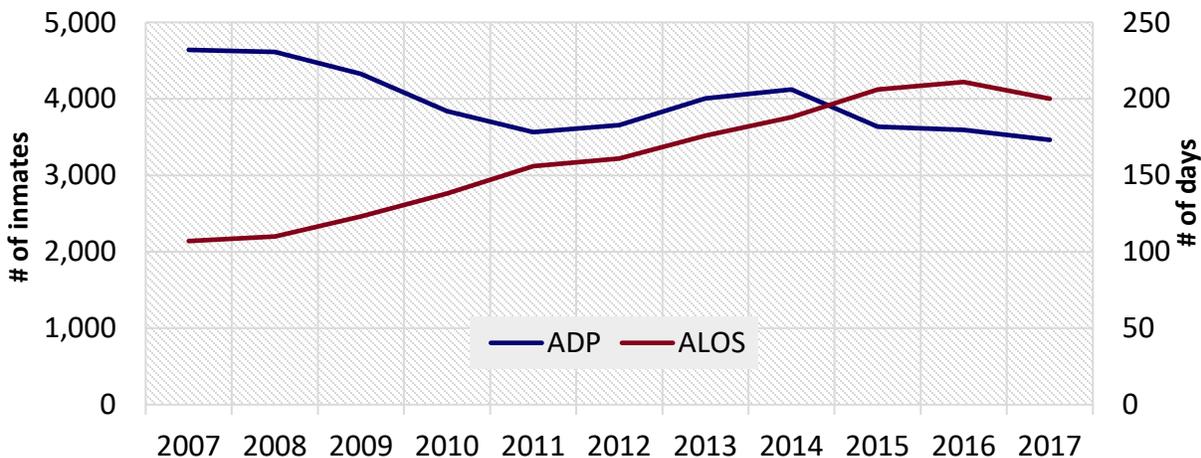
<sup>10</sup> The County of Santa Clara, Department of Correction Needs Assessment/Facility Study. MGT of America / JFA. 2009.

**The bad news is that inmates now stay almost twice as long as they did in 2007, with a current average of 201 days, or almost seven months.**

Average Length of Stay - All Santa Clara Facilities  
(average # days for all inmates)



Average Daily Population Compared to Length of Stay



Today, not only is the average length of stay becoming much longer, but the far edge of that bell curve, meaning those inmates who will serve the longest terms, has now extended into decades. Santa Clara County currently has two inmates, who in December of 2017, were sentenced to **30 years each**. Many of the largest counties in California are facing this dilemma and wondering what will happen when people are forced to live in confined jail conditions for decades.

Some of the facility design at the Elmwood complex will make long-term incarceration more tolerable, but almost nothing about the existing Main Jail is designed for months and years of

incarceration. Research and logic both tell us that the physical environment can contribute to stress and frustration and when those levels rise, violence may be one of the manifestations. The new facility, scheduled to replace Main Jail South, will incorporate natural daylight in housing, color schemes and murals designed to reduce stress, lighting that can be dimmed in individual cells, an acoustic design to reduce the noise level, additional treatment and classroom space, and housing designs to optimize out of cell time. Santa Clara County is taking advantage of modern jail construction concepts and is on the way to be a model for jail planning.

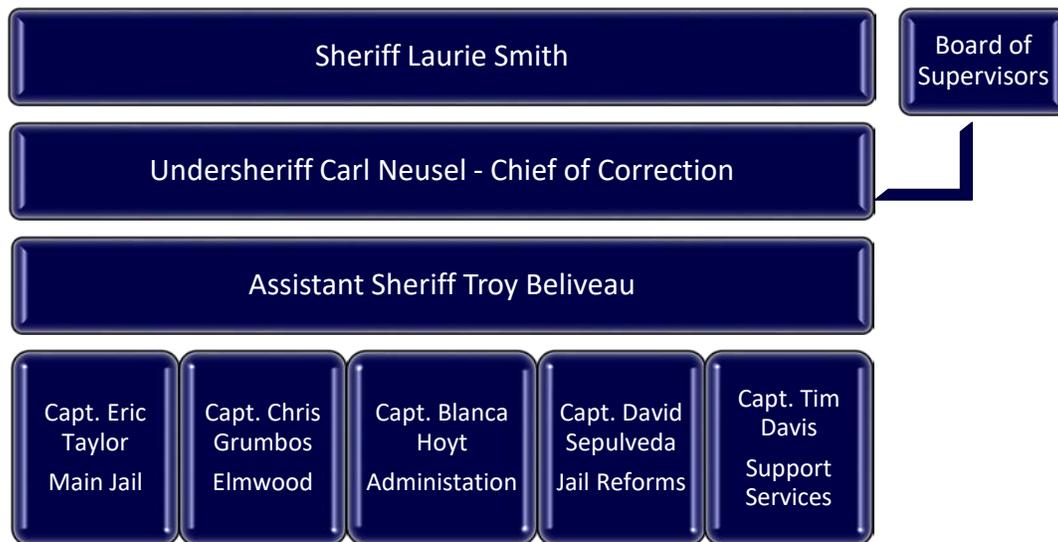
But Santa Clara County is not just looking to rely upon facility design to manage long-term stays. Many positive programs have been put into place for reentry, recidivism reduction and more recently pretrial release. The Sheriff's Office is involved in these initiatives and is looking for new ways to help reduce the costs of incarceration and have better outcomes for inmates. The sheriff, board of supervisors and other criminal justice partners have done an outstanding job of developing alternatives to incarceration and, with the eventual completion of the jail reforms and new construction, may well be recognized not only for jail planning, but as a national model for effective offender management.

## REFORM

As with many organizations, everything seemed okay – until a rather unbelievable act occurred. In August of 2015, three deputies used unauthorized and unsanctioned force on an inmate. The internal injuries from the use of force caused his death within minutes. Sheriff Smith took action, commended by the community and controversial within the agency, that included a swift investigation and arrest of the deputies within days of the death. The three deputies were charged with and ultimately convicted of 2<sup>nd</sup> Degree Murder in 2017.

This event brought unparalleled attention to the jail and critical analysis of almost every aspect of it. Litigators, consultants, community groups, advocacy groups and others descended on the jail with an intensity that had never been seen before, culminating with 623 separate recommendations for change. In hindsight, some observers feel that the amount of community involvement, sometimes influenced by particular agendas, made it difficult to prioritize the issues that mattered most to an inmate’s care and custody. Additionally, some of the recommendations should probably not be on the list. Nonetheless, much of the sheriff’s time over the past two and-a-half years has been focused on making these reforms happen.

### Sheriff’s Custody Bureau Leadership



Sheriff Smith has an experienced and capable Custody Bureau leadership team focused on successfully implementing the reform measures. The sheriff has also worked with many community partners and experts in the field to identify and adopt the reform measures. Santa Clara County has an unusual number of people who are interested in and willing to provide time

and talents to help improve the system. Some of the most important partners in jail reform, who contributed either directly or indirectly to the reforms and this report, include the:

- Board of County Supervisors

Most of these reforms would not be possible without funding from the Board of Supervisors. While the budget reductions from 2011 to 2013 may have contributed to some of the problems, the supervisors have unquestionably stepped up to invest in the jail reforms with a 12% increase in staffing and a 13% increase in operations over the past two years. This is a level of support and funding rarely seen in other places.

- County Executive, Jeff Smith, and his staff
- County Counsel, James Williams, and his staff
- Santa Clara County Health & Hospital Systems
- Blue Ribbon Commission
- Jail Observer Program
- Santa Clara County Civil Grand Jury
- Santa Clara Human Rights Commission
- De-bug San Jose
- Santa Clara Office of Women's Policy
- Santa Clara County Commission on the Status of Women
- People Acting in Community Together (PACT)
- Sabot Consulting (health care, suicide prevention and the Americans with Disabilities Act)
- US Department of Justice, National Institute of Corrections
- JFA Institute (inmate classification)
- Dr. Jeffrey Schwartz (use of force)
- Aaron Zisser, Civil Rights Consulting
- Prison Law Office
- Moscone Emblidge & Otis, LLP

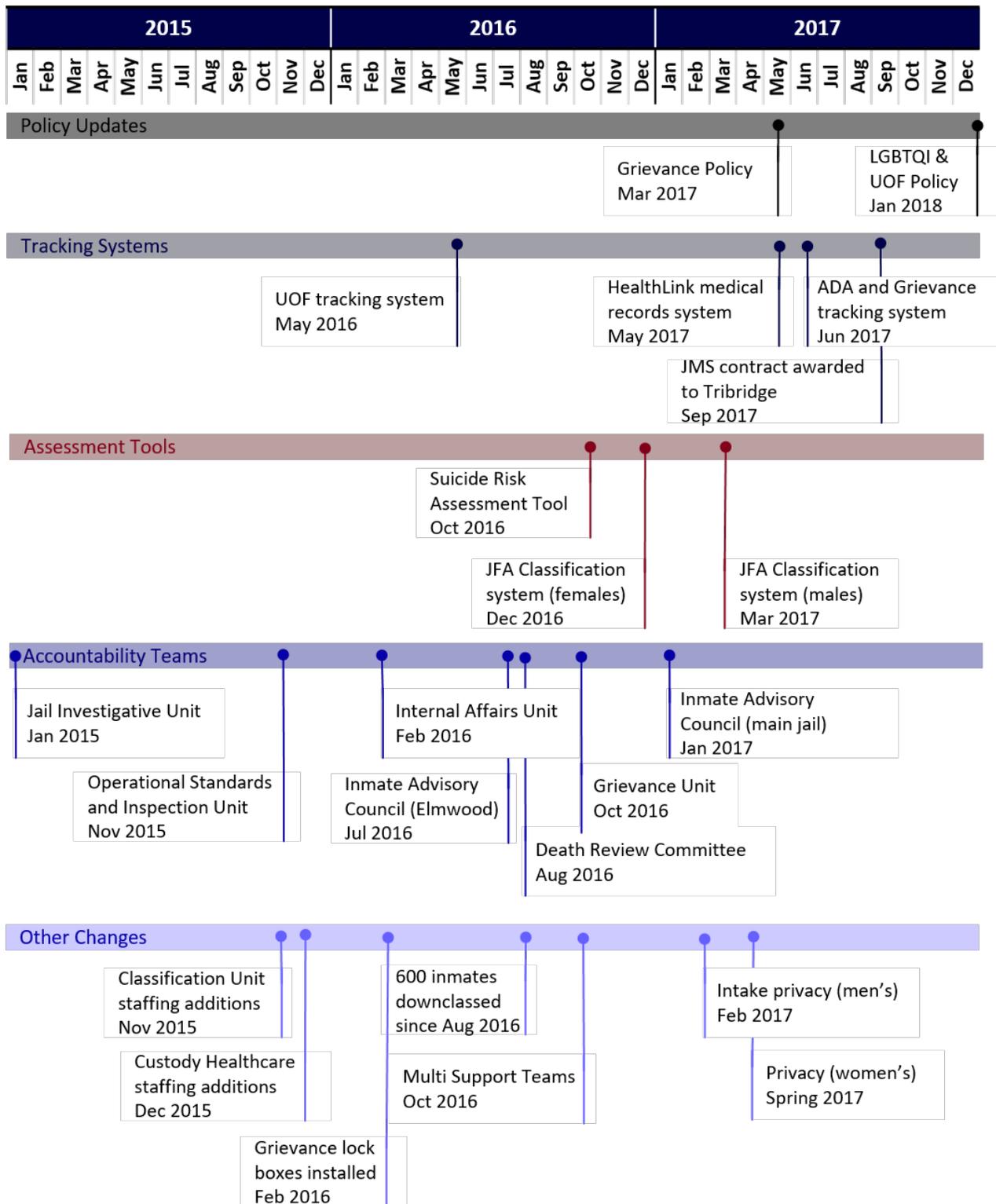
The Prison Law Office in Berkeley, California must be acknowledged too as they have driven many of the reforms through litigation, or the threat thereof, but they also have been reasonable while these many issues were worked through. Don Specter, the Executive Director, had this to say:

*Sheriff Laurie Smith set the tone for reform and accountability soon after the killing of Michael Tyree by arresting three deputies who were subsequently convicted of second degree murder. Subsequently, the Sheriff's office negotiated a new use of force policy that emphasizes de-escalation and has begun training the staff on the new policy. Future monitoring on the implementation of the policy will determine whether it is effective in reducing the use of force and holding staff accountable for excessive uses of force and other misconduct.*

*The Sheriff's office has been very cooperative in hiring experts to evaluate and implement reforms of certain jail policies and practices. Dr. James Austin evaluated the jails' classification system and then oversaw the implementation of an entirely new objective classification system. This resulted in lowering the classifications of hundreds of individuals. Drs. Gage and Wilcox evaluated the mental health and medical care systems, respectively, and their reports have been instrumental in helping the parties reach agreement on remedial plans for both subjects. The Sheriff's office also negotiated a remedial plan for prisoners with non-mobility disabilities, such as vision and hearing. And the Sheriff's office has greatly reduced the number of people who are housed in solitary confinement and has increased the out-of-cell time for those not in restrictive housing.*

*Although there has been significant progress, many challenges remain. Some of the remedial plans have yet to be finalized, those that have been finalized have yet to be fully implemented. Individuals with serious medical and mental health issues remain at risk. Solitary confinement continues to be prevalent, although the number of people in those units has decreased significantly. And we continue to receive correspondence from individuals with complaints about various conditions and practices.*

## OVERVIEW OF THE SHERIFF'S PROGRESS 2015-PRESENT



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## DATA & INFORMATION MANAGEMENT SYSTEMS

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In the 2009 needs assessment from MGT of America, they assessed the information systems and recommended that the Sheriff's Office:

*Develop options to develop and implement an improved criminal justice information system. This would permit the sharing of critical data, thereby improving the effectiveness of the booking and classification process at the DOC.*

Another recommendation from the same report read:

*Initiate steps to improve the jail automation systems by acquiring a modernized jail management system that includes modules on booking, intake, pretrial screening, classification, housing placement, gang management, and special needs tracking. The lack of a modern jail management system impedes the ability of the DOC to manage its functions effectively and efficiently.*

Again, financial constraints prevented the Sheriff's Office from acquiring modern data systems. Even now, they are still using antiquated technology and manually entering records into databases like Microsoft Excel spreadsheets. For being in the heart of the Silicon Valley, the jail is one of the least technologically sophisticated facilities of its size. However, a new Jail Management System is being designed and built, and is scheduled to go online in 2019.

Whether in a jail, business or community, anecdotal information is not a valid way to determine outcomes and progress. People naturally have personal agendas and will tend to overstate or understate the good and bad based on their own perceptions and interests. Much of what may or may not have been happening in the Santa Clara County Jail over the past years cannot be proven or disproven because there were few tracking and data systems. For example, was the jail throwing away or failing to respond to inmate grievances? We cannot truly know because there was not an adequate system to track them. How many of those grievances were valid and how many were frivolous? We don't know. How many found an act or omission that violated policy or procedures? We don't know. Just like running a business, the key to running a good jail is having measurable process and outcome data. Had the right data systems been in place, some concerns could have been corrected sooner and not risen to the level of a reform. Lack of data was problematic throughout this project also, and necessarily limits the scope of this report.

Luckily that gap is changing and several initiatives are in process, or have been completed, to improve the use of technology. Modernized software applications are efficient with personnel time, they standardize collection and retention of data and they store it for valuable historical comparisons to help us evaluate if processes and plans are getting better or worse. In an agency the size of Santa Clara County, good data systems are invaluable to good management, and one of the sheriff's priorities following this report is to identify the most meaningful data points for

future tracking and accountability. Hopefully, the new Jail Management System and related software applications will be designed to provide maximum meaningful data for future management decisions.

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## INMATE CLASSIFICATION

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When there are not enough jail staff to safely monitor inmates out of their cells, one solution is to just leave them in. This was not an uncommon practice in Santa Clara County Jail a few years ago; however, the practice is detrimental to an inmate's wellbeing and prosocial development. Across the country there have been major changes in what is called *administrative segregation*, more commonly referred to as solitary confinement. Research shows that administrative segregation will often have negative psychological influences that will then, in turn, often create misbehavior by inmates.

Sheriff Smith understood the need for less administrative segregation, but at the same time she was responsible for keeping the jail as safe a place as it could be for both inmates and staff. One issue quickly identified as contributing to the problems in the jail was the outdated process for selecting where inmates are housed.

Determining where to house inmates should begin with a good *objective inmate classification system*, which is a data-driven tool that assesses individual risk factors to help make decisions about where to house an inmate. Many years ago, inmates were mostly divided by similar group characteristics such as gender, criminal charges, pretrial or sentenced status. For example, two people both charged with robbery may have been placed in the same cell, regardless of the fact that one of them was a first-time, 18-year-old offender and the other a hardened, repeat offender. Modern classification systems assess individual risk factors to determine where to place an inmate. So, while a robbery charge would still be a consideration, the person's age, criminal history and other individual factors are also given weight so that offenders with similar risk levels are placed together for the maximum safety of all. We know someone with a violent past is more likely to be violent while in jail.

Out of the meetings and reform discussions, the following recommendations were adopted [paraphrased – See Appendix A for current status]:

1. Modernize the classification and review systems.
2. Ensure inmates are classified within eight hours of arrival and create more interaction in their ongoing reviews.
3. Make the classification system gender specific.
4. Reduce restrictive housing/administrative segregation.
5. Move lower risk inmates to the Elmwood complex (it is generally less restrictive).

6. Improve document control and the cohesion of policies that are interrelated.
7. Provide adequate staff to administer the new classification system.

Dr. Jim Austin, one of the foremost authorities on objective inmate classification, has been involved with the Santa Clara County Jail for many years on a variety of population forecasts and other studies. Dr. Austin was again engaged to assess and update the Santa Clara classification system.

Since the jail began updating the classification system, hundreds of inmates have been reclassified to lower levels of custody with more access to amenities and privileges, commonly referred to as “downclassing”. With the move, many of those inmates are now interacting with other inmates, getting more privileges and out of cell time, and generally taking less staff time to supervise. Even in administrative segregation, inmates are housed with similar inmates, if possible, to maximize the opportunity for out of cell time. There usually are, and have been, problems refining the system and finding the balance between allowing as much interaction as practical while controlling the rise in violence from it. Overall, the system of reclassifying inmates is going very well, and Dr. Austin had this to say:

*Since 2016, JFA Institute has been working with Santa Clara County on two important issues. First, a new inmate classification system was designed and implemented based on the standards established by the National Institute of Corrections (NIC). The new system produced a much stronger reclassification component that places more emphasis on inmate conduct. This system has resulted in a significant increase in the number of people classified as minimum custody which has resulted in an increase in the Elmwood jail population. Part of the classification work also resulted in an increase of staff assigned to jail classification functions.*

*The second major task was developing a new jail population projection. This projection shows that the jail population, under current trends, will not increase despite a growing county population. The projection was disaggregated by classification level and special population groups. These data are being used to design a new jail that will replace the current downtown facility. Recommendations were also made to implement several court processing reforms that if implemented would serve to reduce the projection by several hundred inmates. Some of these reforms are being implemented.*

Similarly, Colorado Department of Corrections Executive Director Rick Raemisch is a national leader in reducing administrative segregation. To compliment Dr. Austin’s work in the classification system, Mr. Raemisch was engaged to specifically assist with new ideas and practices in administrative segregation. He said this about the progress that has been made:

*In August of 2016, because of prison reforms we had accomplished in Colorado, particularly in the area of the use of solitary confinement, I was asked by Sheriff Smith and attorney Don Specter if I would tour the Santa Clara jail system and make any recommendations. During my tour, and after having discussions with various members of the Sheriff's Office I believed that the use of solitary was excessive. I should point out that their use of that practice was similar to what many county jails were using. I also observed that some areas of the main jail appeared overcrowded and dirty.*

*This year I was again asked to tour their jail facilities, because they were at an impasse over trying to get some inmates with mental illness out of segregation. After touring the facilities, it was obvious that much had changed. I had the opportunity to observe two shifts of jail personnel. Virtually all of the staff I observed were motivated and took pride in their work. Their interaction with each other, and the inmates was highly professional. Their facilities were clean, and well kept.*

*They had implemented a number of procedures to limit the use of solitary, however getting those with mental illness out of their cells for more than one to two hours per day is still a problem. Staffing, and space were the main issues, and I gave them a number of possible solutions. All in all, it is a fine Office working on a difficult problem.*

Some of the rise in violence though is likely attributable to the increased comingling of inmates after reclassification. Again, inmates do not have the opportunity to assault someone if they are isolated, but that does not mean isolation is the right solution. A more effective inmate behavior management system is being developed to reduce negative inmate interactions, but until that time there may be an elevated level of that violence.

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## USE OF FORCE

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The use of force by law enforcement has come under great scrutiny across the nation in the past few years. The ease of video recording, both by law enforcement and citizens, has propelled new reviews focused on preventing the use of force whenever possible and using force only when it is both justified and no other means of maintaining custody and control are practical.

The US Supreme Court, most notably in *Bell v. Wolfish*<sup>11</sup> and in *Kingsley v. Hendrickson*<sup>12</sup>, established that the authorized use of force in jails may differ from the street. In short, the court helped define what reasonable and unreasonable force in a jail is. It recognized that jails need to maintain safety, security and the orderly running of the facility, and that in some circumstances, force may be required to maintain those institutional goals. For example, in the community a person has the right to stand in a common place and generally say whatever they want. In a jail, doing that that may well lead to a fight or even a riot, so jail staff have the lawful authority to control an inmate's behaviors if they jeopardize safety.

Generally speaking though, jail staff too often resort to force to compel inmates to do something that poses no threat to the facility. "Failure to obey the orders of a staff member" has, in many jails, become an illegitimate excuse to use force. Gaining compliance by threat or force may be easier than using negotiation and patience, but many jails are facing litigation for such practices. There is probably no state facing more jail litigation than California, with tort claims and lawsuits ranging across a variety of issues including the inappropriate use of force. This is the case in Santa Clara after the force-related homicide.

In 2016, a report by the National Institute of Correction, Department of Justice found no *systematic* abuse of force in the Santa Clara Jail.<sup>13</sup> This remains true – as a jail system, there is not a widespread and regular abuse of force. In 2015, supervision and organizational systems that could identify and discipline an abusive deputy were lacking.

After the 2015 inmate homicide, intense scrutiny was focused on the use of force policies and practices. The sheriff listened to and identified concerns within her agency and started to change those as quickly as was practical. In the *Sheriff's Jail Reform Plan* five key recommendations were adopted to address deficiencies and concerns about the use of force in the jail. In short, those were [paraphrased – see Appendix A for current status]:

1. Establish a committee that would review uses of force.
2. Provide better training on the use of force.
3. Improve and expand the use of force policy.
4. Improve tracking of use of force incidents.
5. Increase accountability.

Most notably, a major change in the use of force policy was adopted in January 2018, which is now one of the most comprehensive and detailed policies found in the industry. Dr. Jeffery

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<sup>11</sup> *Bell v. Wolfish* 441 U.S. 520, 540, 547 – 1979

<sup>12</sup> *Kingsley v. Hendrickson* 135 S. Ct. 1039 – 2015

<sup>13</sup> Disclosure: This author wrote the NIC report.

Schwartz, a nationally recognized expert on the use of force, provided guidance to the agency and assisted them throughout the reform process. Not only did the new policy address the actual application of force, but also key topics like review, investigation and accountability for unnecessary force. Perhaps most importantly, it includes key language for what is commonly known as *de-escalation*, or the requirement that deputies consider, and when appropriate, use other means to gain compliance before resorting to force.

Dr. Schwartz offered the following perspective:

*In late 2015, because of my work on use of force issues with prisons and jails across the United States, Sheriff Laurie Smith asked if I would help create a new use of force policy for the SCC Jails. I worked with Jail Managers, County Counsel, the PLO and the Correctional Officers Association and a new use of force policy was finally approved and signed in May, 2017, to become effective in January, 2018, in order to allow time for staff to be trained to the new policy. I was then involved in developing an 8 hour training curriculum on the new policy, tailored specifically to the SCC Jails, and also in intensely training and certifying a cadre of 8 officers and supervisors as instructors for that course. Beginning in September, 2017, those instructors team taught that training to all uniformed jail staff, over 800 individuals, with classes “frontend loaded” with supervisors and managers. The new policy is perhaps the most progressive in the country, with detailed procedures, rigorous accountability and multiple checks and balances against excessive or unnecessary force. The reaction of Jail staff to the training on this new policy was consistently positive.*

Hiring, training, supervision, force reviews and new data systems should help establish a sound process to determine if use of force is valid. Also, improved data management will help establish employee *early warning systems* to identify employee misconduct problems before they manifest into more serious behaviors like excessive force.

Significant progress has been made to date. The entire process about the use of force has changed and the system is in the final steps that should reasonably ensure that instances of excessive force are identified and can be dealt with. The sheriff has stated her commitment to continuing those efforts until the community again fully trusts that the jail is as safe as it can be for both inmates and staff.

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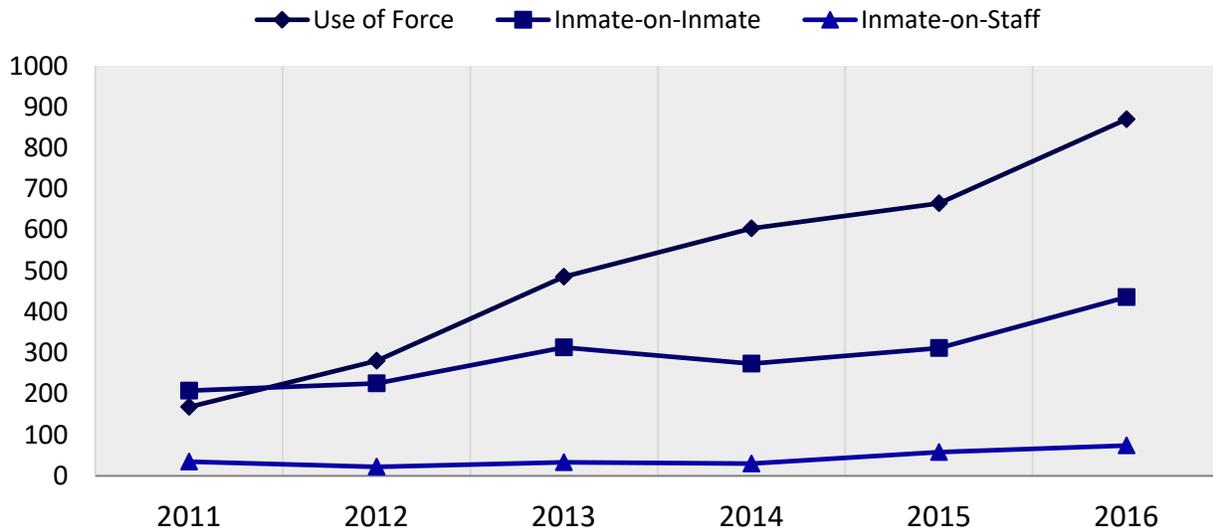
## JAIL VIOLENCE

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Santa Clara has experienced an increase in jail violence, but the staff use of force is only a part of the issue. There are many other dynamics. As previously stated, California made legislative

decisions that are greatly impacting jails throughout the state. One of the unintended consequences is that the jails, at least the Santa Clara County Jail, has a more hardened inmate population that is more prone to violence.

### Jail Incidents Involving Physical Force or Violence

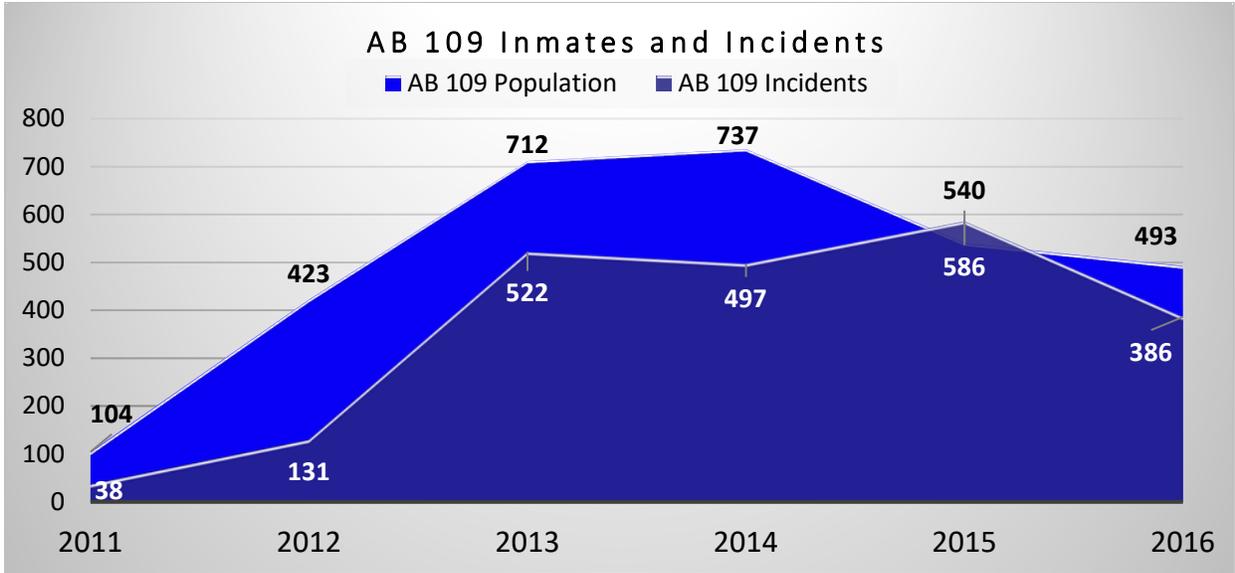


*At first glance it may appear that staff are disproportionately using force, but there is insufficient data to establish or refute that claim because cause for the force cannot be determined in the data.*

### AB 109 Inmates

AB 109 inmates were first housed in the Santa Clara Jail in 2011, with an average daily population of 104 AB 109 inmates. By 2014, the AB 109 population peaked at 737 inmates and then dropped off to 550 or fewer. An “AB 109 Incident” is any jail incident report that involves an AB 109 inmate and, while we expect the number of jail incidents to correlate to the number of inmates, the incidents for AB 109 inmates rose disproportionately in 2013, and then again in 2015, even after the population decreased. Interestingly, there were similar disproportionate spikes in inmate grievances and other problem areas during the same years.

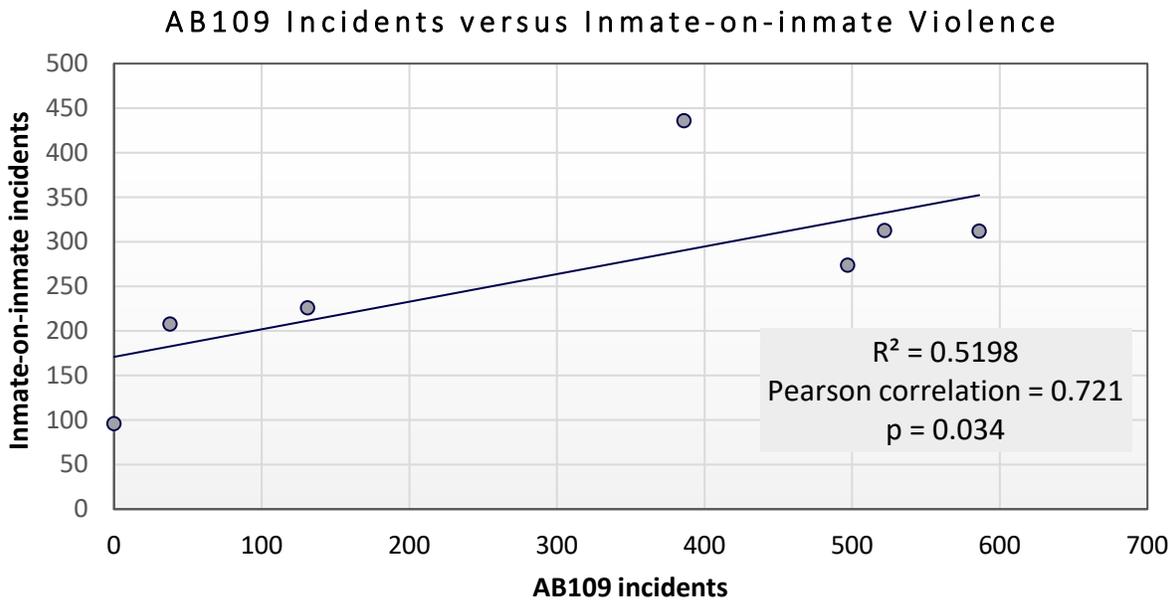
There is no data to compare the rate of AB 109 inmate incidents with the rest of the jail population, but the chart on the following page reflects the added population and problems associated with AB 109 inmates.



Moreover, the data indicates a fairly strong correlation between AB 109 incidents and inmate-on-inmate violence. The graphic below shows the correlation between the two and can be interpreted as:

*About 50% of the variation in inmate-on-inmate violence is related to AB 109 inmates who create AB 109 incidents.*

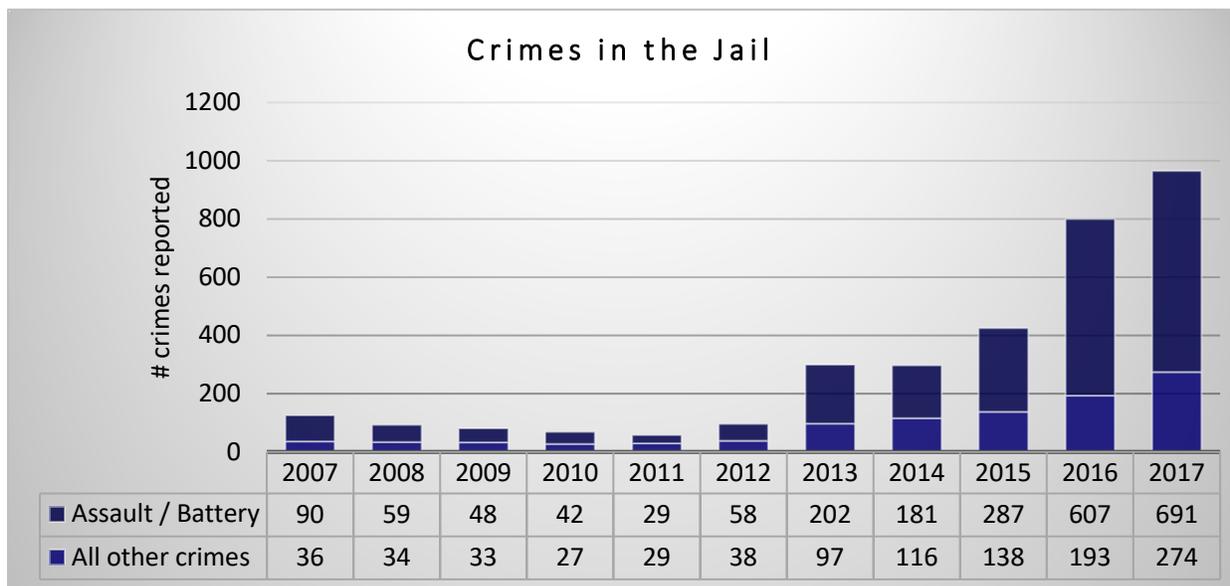
In some ways, this confirms what we suspect – there are a few AB 109 inmates who tend to be substantially more violent than other inmates.



## Jail Crimes

The most commonly reported crimes in the jail are assault and battery. In short, assault is the apparent intention to attack someone and battery is actually doing it. Historically, if an inmate was the victim of an assault or battery but told the deputies that they did not want to prosecute or report it, there may or may not have been a crime report on it. In jails, inmates are reluctant to prosecute other inmates for fear of retaliation or getting a “rat” label.

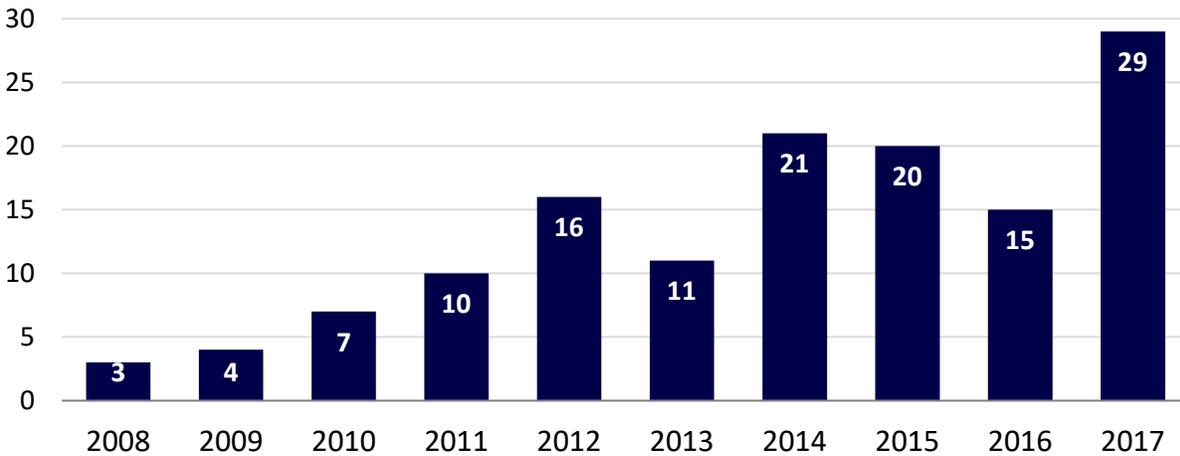
The sheriff recognized that regardless of the lack of desire to prosecute, the crime still occurred. And if it was no longer on the inmate to document the crime, then more criminal cases might be successfully prosecuted, even if the victim was only marginally cooperative. Therefore, the Jail Crimes Unit began documenting all assault and battery crimes that occur in the jail, whether they proceeded to prosecution or not. The following table shows the effect of the change in the reporting system but it also includes an increased level of inmate-on-inmate violence. We do not know from this data whether or not there are actually more assault or battery crimes, but from the previous data on incident reports, we can be reasonably sure there are.



## Safety of Jail Staff

Jail staff have a perception that the jail is more dangerous for them, and they are correct. The following shows workers’ compensation claims that had a loss of work time, all from altercations with inmates. While there have been increases and decreases in the past, the frequency of these incidents in 2017 should alarm decision makers and hurry a conversation about staff safety.

### Workers Compensation Claims with a Loss of Work



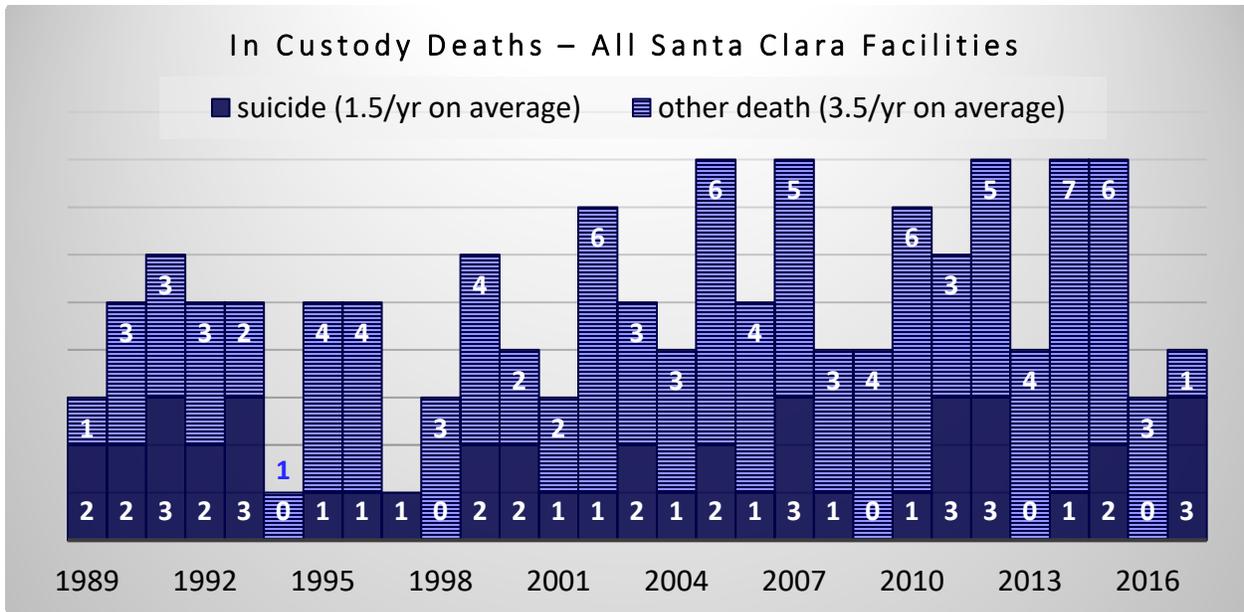
Santa Clara County is currently discussing whether jail staff should be equipped with an electronic control device, commonly referred to as a Taser. Most jails in the U.S. equip at least one officer in each main housing area with a Taser, and many equip all sworn jail staff with them. There has been controversy about their use at times, but what cannot be measured is how much violence they prevent. The experience of most jails is that combative inmates stop their behaviors sooner and more frequently when they know that a Taser may be deployed. Also, because the inmate and deputy are not grabbing each other while struggling and thrashing about, there is less chance of a deputy being injured and often less of a chance that the inmate will be injured beyond the Taser probe cuts. When used properly, Tasers are a valuable tool in a correctional setting to prevent violence and reduce the risk of injury to both staff and inmates.

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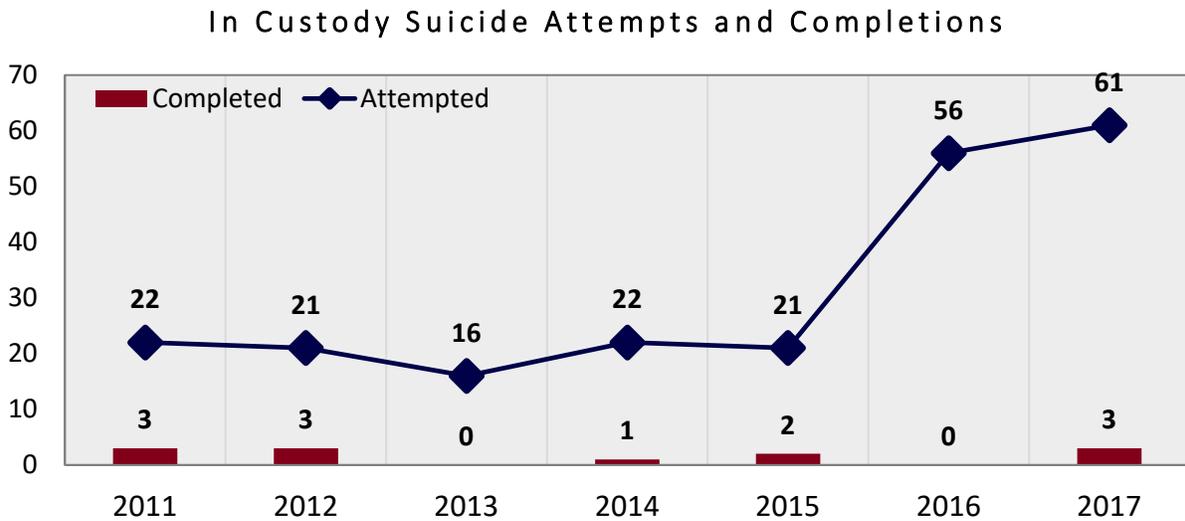
### SUICIDE PREVENTION

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Few people want to be in jail. For most, the reason they are there and the uncertainty of the outcome puts tremendous strain on their mental wellbeing. The stress of arrest, trial, sentencing, alienation from family and other things makes a jail a hotbed for suicidal thoughts. The Santa Clara County Jail houses more people than live in many cities and towns in the United States. Just like in those cities and towns, people die - some of them by suicide. The Santa Clara County Jail has experienced about five inmate deaths per year between 1989 and 2017, and 1.5 of those were attributable to suicide each year.

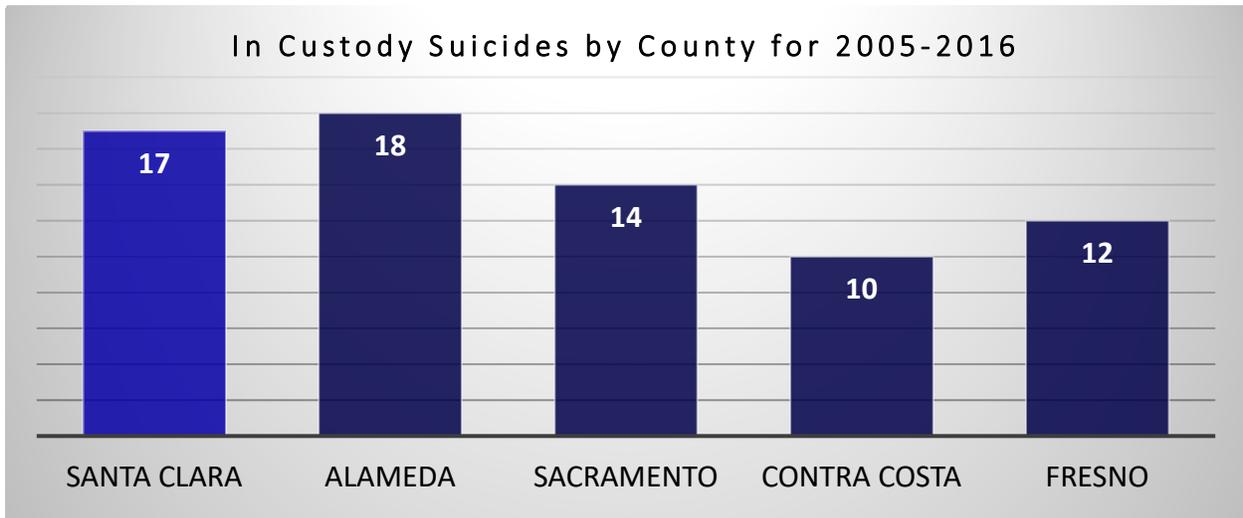


In 2016 and 2017, there were an unusual number of suicide attempts, more than doubling from the previous five years. While this is troubling, and we cannot determine causal factors, the actual number of completed suicides stayed low and in line with those previous years.



A jail has a legal obligation to care and protect inmates – even from themselves. The latest data from the Bureau of Justice Statistics reports a national jail suicide rate of 46 per 100,000

inmates.<sup>14</sup> All suicides are tragic and all reasonable steps should be taken to prevent them. That said, it is important to understand the *severity* of the problem of suicides in the Santa Clara County Jail. According to the California Department of Justice, Santa Clara had a similar jail suicide rate to the four California comparison counties, all of which are comparable to the national rate. The data was not available to provide a precise suicide rate for each facility.



It is generally accepted that jails have become defacto mental health institutions in the United States and with that, comes the increased likelihood of jail suicides. A 2016 study of serious mental illness in jails reported, “Suicide is the leading cause of death in correctional facilities, and multiple studies indicate as many as half of all inmate suicides are committed by the estimated 15% to 20% of inmates with serious mental illness.”<sup>15</sup>

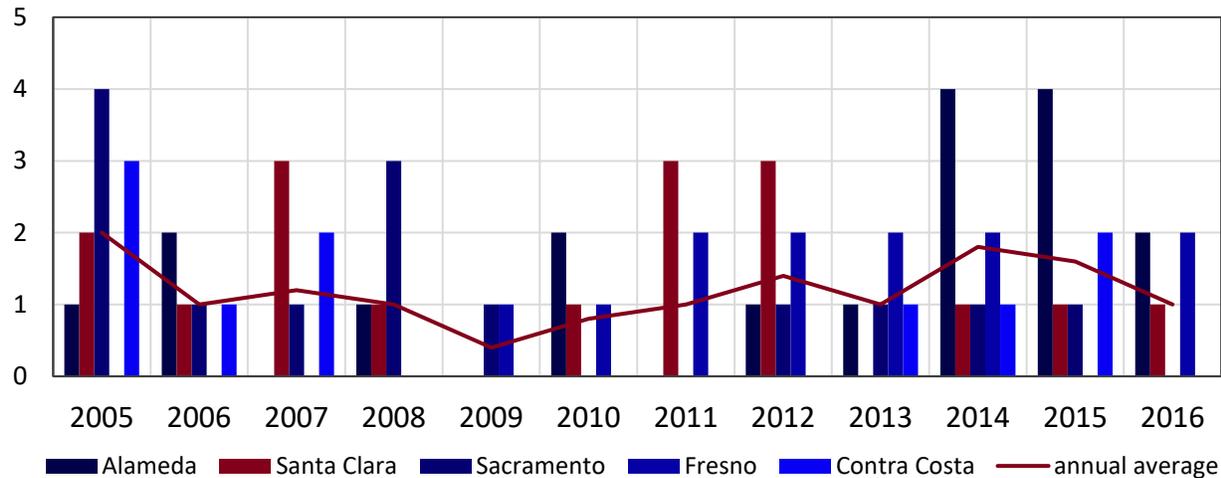
For all the comparison counties, the chart on the following page does not show a consistent trend in the increase or decrease of suicides within the jails. Except for a two-year spike in Alameda County in 2014 and 2015, the data shows a relatively flat suicide rate across all incarcerated populations in these five counties since 2005.

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<sup>14</sup> Mortality in Local Jails and State Prisons, 2000-2013 – Statistical Tables. US Department of Justice, Bureau of Justice Statistics. August 2015.

<sup>15</sup> Serious Mental Illness Prevalence in Jails and Prisons. Treatment Advocacy Center. 2016.

Jail Suicides by Year in Comparison Counties



Nonetheless, the Sheriff’s Office welcomed the opportunity to improve their suicide prevention practices and several initiatives were adopted, to include [paraphrased – see Appendix A for current status]:

1. Create suicide prevention specific cells.
2. Monitor them through audio and video.
3. Modify doors and windows in them for safety and natural light.
4. Modify electrical and lighting for improved safety and staff visibility.
5. Ensure health screenings are reasonably private.
6. Improve practices for suicide precautions, including a suicide risk assessment tool.
7. Improve medical/mental health practices including screening, assessment, housing conditions and training.
8. Improve triage for referrals and planning for suicide precaution discharge.
9. Improve training for medical/mental health and custody staff.
10. Establish a multi-disciplinary death review policy and process.

The Board of Supervisors approved over \$3.2 million in response to the recommendations and several facility remodels and renovations are currently underway.

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## INMATE GRIEVANCE PROCESSES

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Inmates have few choices in their custodial life. Almost everything is scheduled and structured in a way that makes for an efficient workflow for staff. When an inmate has a need, they usually must rely upon a staff member to take care of it. When that does not happen in a way that satisfies them, their recourse is to submit a *grievance*.

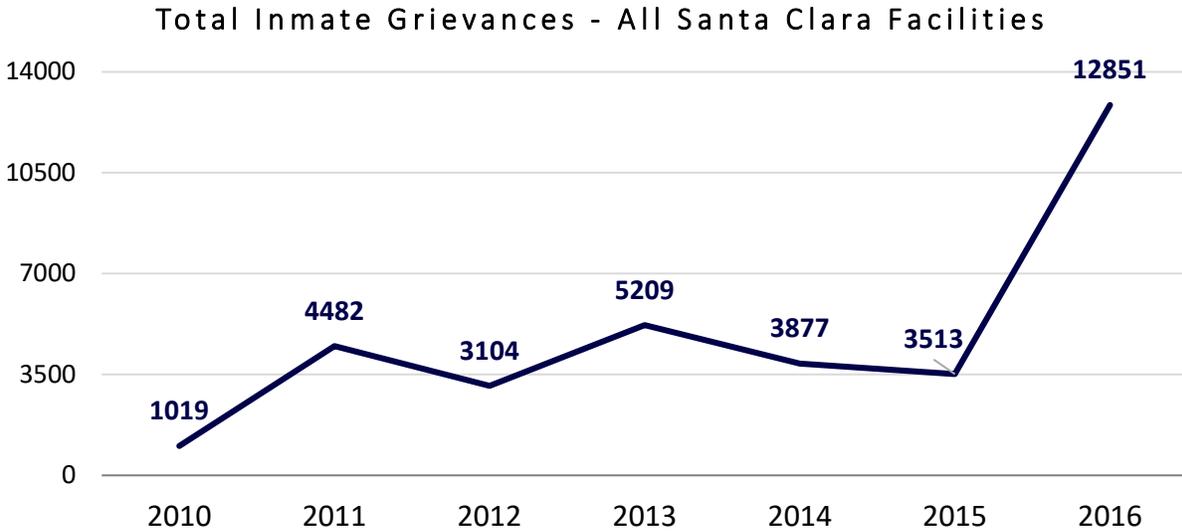
Jails often struggle with grievance systems and their accountability. Ideally, an inmate could make a request of a deputy, and if the request was reasonable and within the power of the deputy to take care of it, the matter would be resolved then and there. The problem arises when a deputy either does not have the authority to resolve the matter, or they choose not to. A good grievance system allows an inmate to report the matter to a person with authority to implement a resolution and document the outcome. Without a good grievance system, inmate requests can get lost or discarded.

As early as 2015, the sheriff recognized there was a problem with collecting and tracking inmate grievances. There were many assertions, and some evidence, that grievances were not processed properly from the point of collection through the final disposition. From an analysis, several reforms were adopted to include [paraphrased – see Appendix A for current status]:

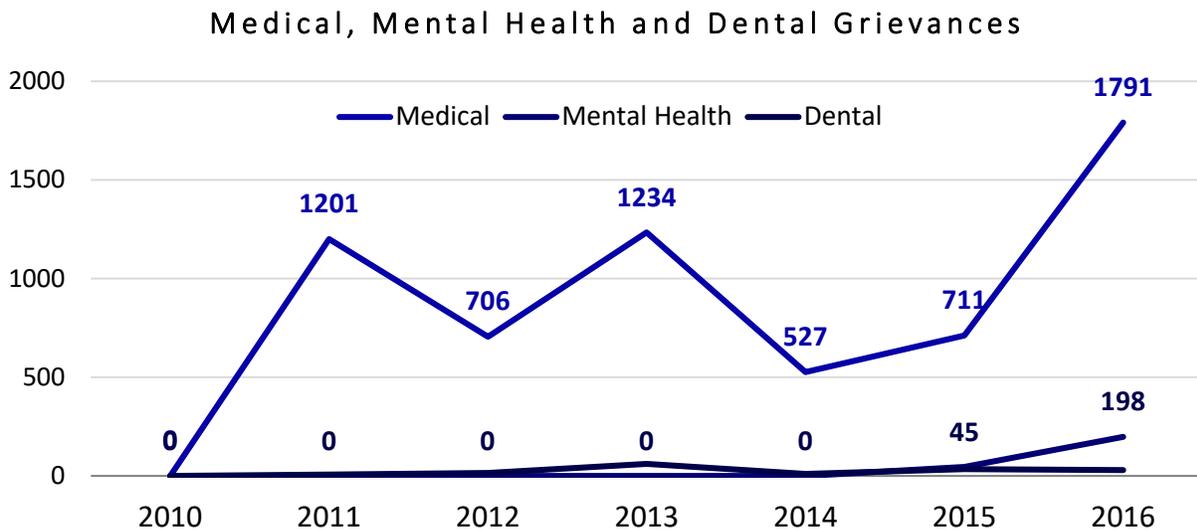
1. Ensure grievance forms are accessible, confidential and responded to promptly.
2. Implement an electronic grievance system, but until then strengthen the integrity of the current manual system.
3. Modernize the PREA information process.
4. Assign all complaints to Internal Affairs and increase accountability.
5. Collect and publish data on grievances.

The first and most important reform was addressed quickly by using locked boxes in housing areas, and having the grievances picked up and attended to by sergeants. Staff began responding to every grievance, which has been a major improvement in the system. Since these first changes, the sheriff and county have completed all but one of the grievance reforms. A tracking system is now in place and soon inmates will be able to submit grievances electronically, making tracking even better while reducing the labor-intensive collection process and allowing sergeants to dedicate more of their time to staff oversight and development.

As the jail gave more attention to the grievance process, the number of grievances increased sharply. An overwhelming number of custody staff believe that inmates realized they were getting attention through the grievance system, so they began using it - and then abusing it - to draw disproportional attention to their concerns. Those staff members believe inmates, individually and in groups, can pressure ranking members of the jail into conceding policies and rules to avoid increased numbers of grievances. Are there more grievances because there are more problems? Are there more grievances because the system is being manipulated? Or are there more grievances because inmates now feel the process is meaningful and worth the effort? We cannot determine the answer at this time; however, in interviews with inmates, they have commented that the grievance system has been one of the best improvements for them.



With the overall increase in the number of jail grievances, medical and mental health grievances also rose sharply. From 2015 to 2016, total jail grievances increased by 266%, medical grievances increased by 152% and mental health by 340%. It is interesting that total jail grievances and medical grievances followed a similar fluctuating pattern from 2010-2016, with spikes in 2011 and 2013. Basic medical data was requested so that correlations could be explored, but reportedly even the numbers of requests, visits, etc. is not available in the medical records system.



The Sheriff's Office began a new grievance tracking system in June of 2017. Data are now available to evaluate trends in grievances including common causes, their source, the response

of the agency and more. While it does not help explain historical patterns, there are some data points from the seven months:

- 6,702 grievances were submitted
- The most common grievance category was for medical services (978; 14%). The most common complaints were:
  - Care (305)
  - Appointments (231)
  - Medication (206)
- The second most common grievance category was out-of-cell activities (775; 12%). The most common complaints were:
  - Time allotted (414)
  - [not defined/uncategorized] (144)
  - Not given out time (125)
- The other three categories in the top five most common grievances were:
  - Inmate requests (744; 11%) – Note that these are not grievances, but requests that are written on the grievance form.
  - Staff conduct (643; 10%)
  - Classification (507; 8%)
- It is worth noting that 7% (472) of the “grievances” were actually positive comments.

This type of data collection is a good foundation to measure progress. If it can be combined with better operational data in the future, the jail will be on the path to data-driven decision making. Until that time, a comprehensive survey of inmate perceptions is planned for later in 2018. While it will only be an opinion survey, it will explore inmates’ perceptions of conditions and the grievance process, and there will be a large enough sample size to have confidence in the results.

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## HEALTHCARE

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Early in the reform process, the sheriff sought to determine if there were gaps in care that should be improved. Healthcare is one of the most litigated areas for jails and, if done poorly, can result in lifelong consequences or even death for inmates. Jail deputies are not qualified to provide or assess medical care. In Santa Clara County, medical personnel who provide care for inmates are not employed or supervised by the sheriff, but the results of their work certainly impact the jail.

Through a contract with Sabot Consulting, the following projects were initiated:

- In January 2016, Dr. Jay Shulman assessed the dental services being provided in the jail and provided a set of recommendations.

- In early 2016, Dr. Todd Wilcox completed an assessment of the medical services in the jail and provided a set of recommendations.
- Also, in early 2016, Dr. Bruce Gage completed an assessment of the mental health care in the jail and provided a set of recommendations.

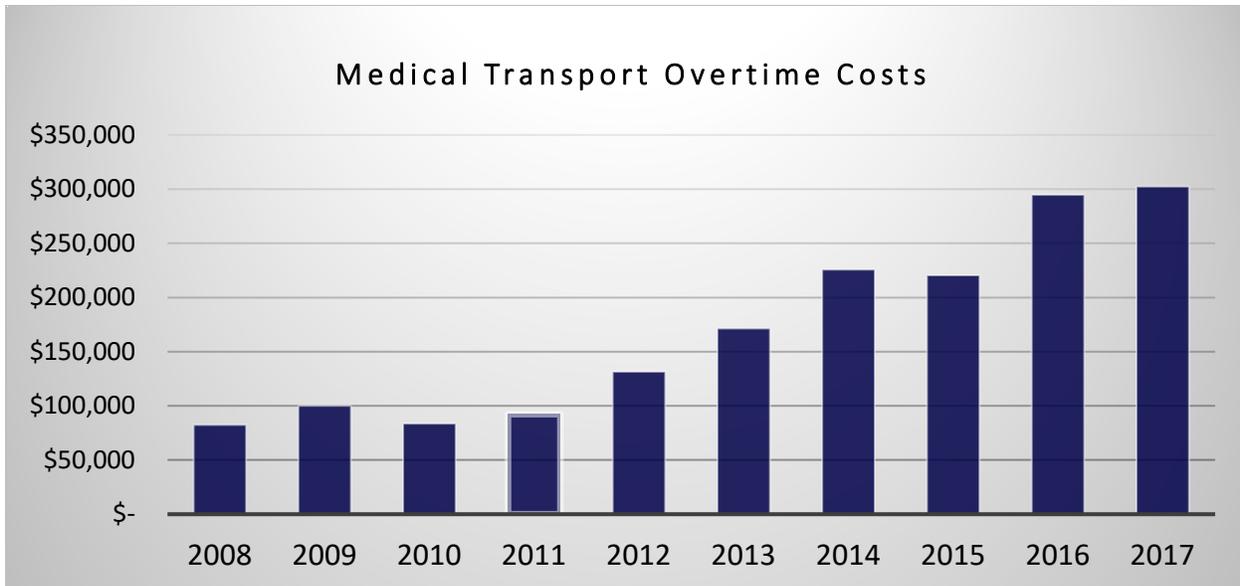
The recommendations were condensed and included in the Sheriff's Jail Reform plan as follows [paraphrased – see Appendix A for current status]:

1. Improve the efficiency and effectiveness of medication distribution. Provide information for continuity of care after release.
2. Expand dental care options as appropriate.
3. Establish or improve the assessment, care and continuity of behavioral health clients and establish a behavioral health urgent care center.
4. Establish a jail health care administrator, a director of mental health and increase coordination between both and the jail staff.
5. Improve the medical request process and the triage and documentation of those requests.
6. Improve the process for screening and observing mentally ill inmates.
7. Modernize the restraint policy in regards to those inmates under medical or mental health care.
8. Improve the accountability of healthcare and improve efforts for continuous quality improvement.
9. Improve the coordination and delivery of healthcare.
10. Improve the integration of assessments, mental health clinicians and other resources with the management and care of mentally ill inmates.

We requested healthcare data for this report, but due to the data systems of that agency, none could be provided. We had hoped to identify whether there were correlations between health care activity, outcomes, grievances, etc. but little can be determined without data.

### **Medical Costs and Cooperation**

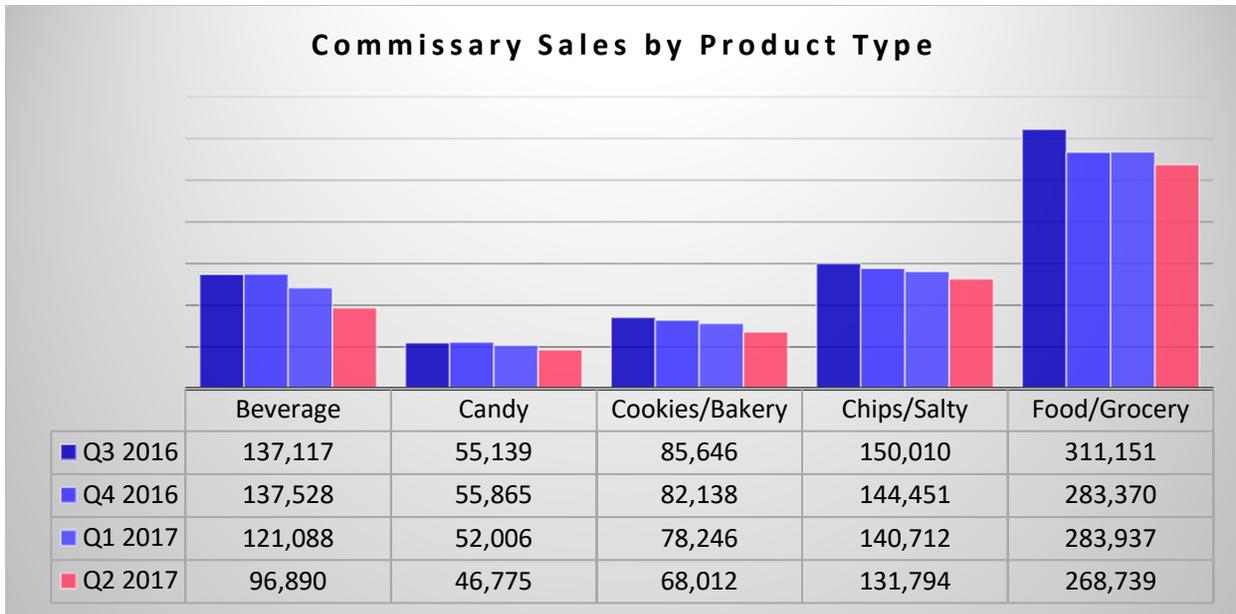
What is clear is that the costs for supporting medical services are increasing. For example, even though the jail population has been decreasing, just the *overtime* for medical transports has increased 130% in the past five years to over \$300,000 in 2017. Medical transports are necessary when the jail does not have the capacity to perform a procedure, such as surgery, or when no qualified medical staff are present to perform the triage and diagnosis of a patient. Without medical data to understand why inmates are being transported, we cannot determine the actual causes of the increase. It would serve taxpayers well for medical and jail staff to work together to determine if there are other options for providing services without having to move inmates as often.



Chronic conditions such as diabetes, hypertension and similar medical problems are also an increasing medical cost in jails, and managing these conditions may require stronger cooperation between medical and jail staff. One dataset we were particularly interested in comparing was the frequency of issues related to these conditions with a change in the inmate commissary system.

Santa Clara County, like most counties, received a commission from the sales of candy, baked goods, beverages and other items available to inmates who have money to purchase them. Santa Clara’s commission rate on those items was 50% of net sales, providing the jail with an average of \$60,000 per week. Under pressure from community interests, the jail eliminated all commissions in March 2017, effectively cutting the cost of most food and snack items in half.

The cost reduction did not create any significant *savings* for inmates or their families though because inmates will generally spend what they have in their account. Sales dropped less than 10% from the previous quarter after the price reduction in Santa Clara. The actual effect of stopping commissions is that inmates now purchase about 40% more food and beverage items from commissary than they did prior to the price drop. Most of the items the inmates purchase like candy bars, chips, ramen noodles, drink mixes, etc. are considered “junk food”. As previously explained, medical data are not available; however, experience from other jails indicates there may be unintended consequences of cheaper junk food such as increased issues with diabetes, hypertension and other conditions related to salt and sugar intake.




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## AMERICANS WITH DISABILITIES ACT COMPLIANCE

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Just as in the community, some inmates have disabilities and need accommodations to live in the jail. All of Santa Clara’s jails pre-dated the Americans with Disabilities Act, so many aspects of the facilities did not meet current standards.

Sabot Consulting assessed the jail’s compliance with the Americans with Disabilities Act and determined facility upgrades were needed, as well as modifications to existing services and materials. The recommendations included [paraphrased – see Appendix A for current status]:

1. Programming should be developed to accommodate inmates with ADA needs.
2. Classification, accommodations and programming needs for inmates with disabilities.
3. Ensure written materials comply with ADA requirements.
4. Modify facilities to be ADA compliant.
5. Use software to track ADA concerns and needs.
6. Provide ADA training for staff.

All of the recommendations have now been completed except for modification of the facility. It is difficult to make physical changes to jails both because of how durably they are built and having to relocate inmates during construction. In the case of Main Jail North, the modifications are occurring floor by floor.

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## PROGRAMS

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The word *program* in the jail context refers to learning, counseling and other activities that improve the life of an inmate while they are in custody or after they are released. Common examples include substance abuse, counseling, parenting, anger management, literacy, employment and reentry programs.

During the reform efforts, recommendations were developed and adopted regarding program practices. Those recommendations were distilled to four major areas that include [paraphrased – see Appendix A for current status]:

1. Support programs for the mentally ill while they are in jail.
2. Develop/expand job readiness training.
3. Develop/expand the re-entry program.
4. Expand the capacity and quality of in-custody programs.

### **Multi-Service Deputies**

One of the most significant and meaningful things Sheriff Smith has done was to create *Multi-Service Deputies* (MSDs). These employees are selected from the deputy ranks, but they wear a more casual uniform and focus on helping inmates who have significant needs, mostly from mental illness. They develop relationships and understanding with those inmates, somewhat like a case worker would. This has proven to be very effective and is highly regarded throughout the jail system.

### **Reentry Center**

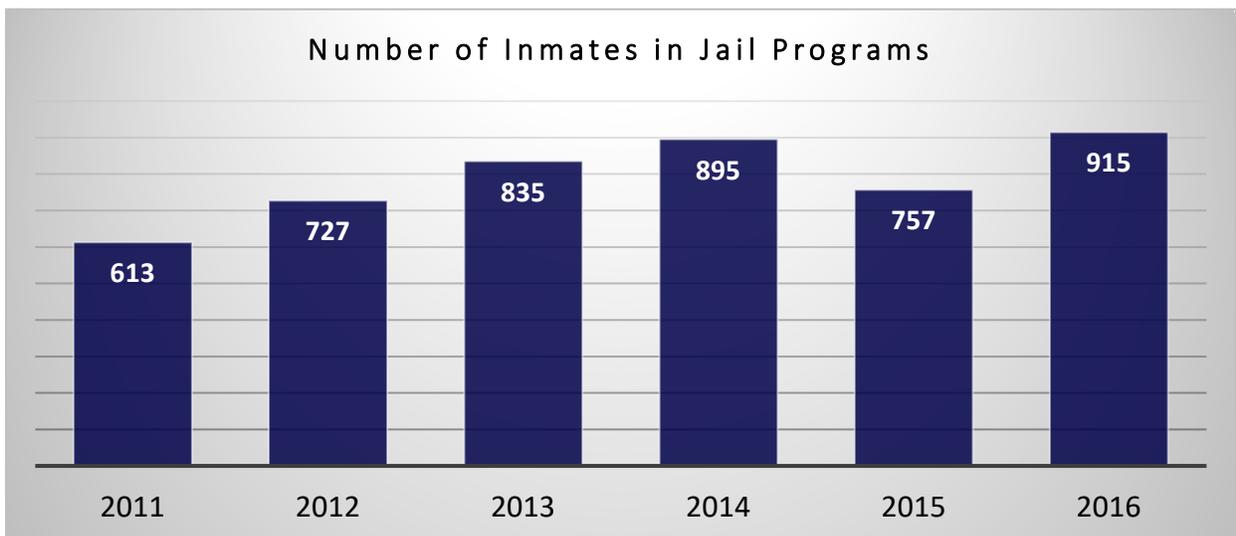
Another highlight of the program reforms is the Reentry Center near the main jail, run with the cooperation of various organizations, including the sheriff. The center opened in 2012 and has evolved to provide several support services to a variety of clients. San Jose State University teaches classes, diversion programs help mentally ill people get out of the jail system, a detoxification center is preparing to open, and the sheriff provides reentry services for offenders at the end of their criminal justice system experience. The forward-thinking development of the Reentry Center and its unique collaboration of agencies will continue to reduce unnecessary incarceration of low risk individuals in the Santa Clara County Jail.

### **In-Custody Programs**

In-custody programs and personal support opportunities have been expanded and now include a wide variety of opportunities and customized delivery depending on inmate needs, housing assignment, classification, etc. These include:

- Life skills for both men and women
- Employment/job readiness skills for both men and women
- Trauma informed substance abuse
- Basic education
- Parenting
- English as a second language
- Food preparation and safety
- An embroidery program with job certifications
- A trauma-informed healing/contemplation garden for women
- Volunteer pet therapy

Longer lengths of stay will likely require an expansion in the capacity of existing programs too, especially those that reduce recidivism *and* keep the community safe. In this post AB 109 and Proposition 47 era, Sheriff Smith is committed to forward-thinking practices and programs that improve community safety outcomes. More sophisticated data systems will allow Santa Clara to evaluate these programs and ensure the jail develops on the right track.



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## OTHER INMATE SERVICES

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Within the reform processes, a variety of recommendations were adopted that did not fit in any of the other categories. Those include [paraphrased – see Appendix A for current status]:

1. Ensure telephones are available to inmates and costs are reasonable.
2. Expand visitation and make the system more user-friendly to visitors.
3. Ensure commissary pricing is reasonable.

4. The Inmate Welfare Fund Committee should be more involved, more informed and seats should have term limits.
5. Orient and educate inmates better. The rule book should be more informative and instructive, and easy for all inmates to understand.
6. Increase communication between the Sheriff's Office and inmates and their families and friends. Ensure equal access to programs and services and create behavioral incentives.

### **Inmate Advisory Councils**

The most significant item on this reform list is improving communication with inmates. It is a challenge to figure out how to communicate with 3,500 inmates who live in many different places in the jail system, and to find inmate representatives who can think and speak objectively. Within the last year, Sheriff Smith established *Inmate Advisory Councils* made up of inmates from each of the major housing areas. Staff and inmates on the Advisory Councils have regular meetings and while it has helped, the small number of inmates on the Advisory Council provide limited feedback to the sheriff. In 2018, Sheriff Smith will deploy the first ever methodologically valid inmate survey. These types of opinion surveys are the most reliable method for collecting statistically valid opinions, and it should yield good feedback to the Sheriff's Office.

To date, all of the recommendations have been completed except for the Inmate Welfare Fund committee and inmate orientation improvements. Both are currently in development.

### **Oversight**

The Santa Clara County jail has an unusual number of special interest groups with an interest in the jail. Certainly, the community involvement and input is a benefit. However, when groups with a specific agenda become too involved in any business or operation, their voice can become overrepresented in the decision-making process. We have met with most of the people who have a particular interest in the Santa Clara Jail and have found them to be truly dedicated, intelligent and reasonable people with the common goal of making the jail the best place it can be for inmates, and often staff as well. Sheriff Smith has embraced most of these groups and developed a good relationship with them. There is a nearly unanimous opinion by these stakeholders that Sheriff Smith has made significant progress and the jail staff and conditions are much better than a few years ago. These stakeholders often recognize the difficulty of changing such a large organization and expressed appreciation for the effort that she and the other leaders in the Sheriff's Office have shown.

At the same time, there is also near unanimous concern that attention to programs and reform efforts will not continue in the years to come. It will take a few years to fully engrain the reforms into part of the organizational culture, so current and future leadership will need to commit to the work that has been done and strive to make it better. Sheriff Smith has voiced her

commitment to seeing these reforms through and regaining confidence of the community. Chief Neusel deserves credit as well. He is a thoughtful and intelligent leader and has made the same commitment to forward progress for as long as is needed.

As often happens after a major negative event in a government agency, there was a call for independent oversight of the jail after the homicide. What seems to be missing in that conversation is the answer to the question, “What current problem will oversight solve?” In the opinion of some who are closest to the issues, both inside and outside the Sheriff’s Office, independent oversight would not move reforms along any faster than they are already moving. In fact, a few believe it would just be another layer of bureaucracy that might slow progress.

What independent oversight can do is add organizational accountability. However, for now, it may be wise to allow the sheriff to continue the reforms, begin to collect meaningful data, continue communication with inmates and demonstrate the agency’s commitment to transparency. When the reforms have been implemented and jail operations have stabilized to their “new normal”, the sheriff, county leadership and the community can re-evaluate whether independent oversight would truly add value – and what value it would add.

Through the jail reform process, the following recommendations were adopted [paraphrased – see Appendix A for current status]:

1. Establish independent oversight of the jail and the Sheriff’s Office.
2. Establish a nine-member volunteer commission [authority not stated].
3. Create an ombudsman office out of the existing Jail Observer Program.
4. Consider whether the jail should be an independent agency again and study leadership models.
5. Implement jail reforms in a timely manner, include stakeholders and issue reports on Americans with Disabilities Act and Prison Rape Elimination Act findings.
6. Ensure recommendations are implemented within custody and Custody Health.

While all of these are worthy of consideration, and some may be worthy of implementing, these recommendations are more nebulous than most of the others, likely because of that unanswered question about what problem they are trying to solve.

One quasi-oversight entity exists now in the *Jail Observer Program*. Their mission statement reads:

*The Santa Clara County (County) Office of Human Relations-Jail Observer Program (JOP) serves as a confidential, neutral and independent office to informally address concerns and grievances related to all aspects of adult custody, including inmate health and behavioral health care, at the lowest level systemically possible.*

The program currently relies mostly on calls and requests from inmates and inmate’s families, but it does not have any investigative or formal authority over the jail. The Jail Observer Program has a good relationship with the Sheriff’s Office staff and their communication is meaningful and frequent. The Program’s annual report shows that calls about staff conduct dropped by half during the latest reporting year but calls about medical concerns increased and took the top spot for complaints. The Jail Observer Program expressed appreciation and optimism for the future of jail conditions.

**JOP FY 2015-16 and FY 2016-17 Concern Comparison**

Available Concern Category Data for Comparison	% 2015-16	% 2016-17
Staff Conduct	22.2%	↓ 11.5%
Physical Health/Medication	17.0%	↑ 19.5%
Legal Assistance	16.8%	9.5%
Info & Referral	18.0%	23.0%
Grievance Process	3.0%	4.2%
Facility Environment	7.0%	3.5%
Classification	3.6%	5.6%
Behavioral Health/Medication	5.0%	4.2%
ADA	7.3%	2.3%

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**HIRING, STAFFING AND TRAINING**

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The jail is a large business and employer. There are about 850 sworn staff positions assigned to just the jail, making it much larger than most other jails in the country. The physical structure of the facility makes a considerable difference in how safe the working environment is and how efficient it operates. For example, the housing areas of Main Jail North and the Elmwood Complex provide inmates with safe and reasonable living accommodations for a short amount of time and staff have good visibility and access. However, the multi-level design of Main Jail North requires movement between floors from a central hub elevator, and the sprawling campus of Elmwood (62 acres) makes for considerable walking time between the housing facilities. Both of these physical dynamics require additional staffing to ensure proper safety for both inmates and staff.

The sheriff’s reform plan adopted the following recommendations [paraphrased – see Appendix A for current status]:

1. Increase the thoroughness of the hiring process. Favor candidates with education and/or experience in criminal justice and social sciences.
2. Conduct a staffing study.
3. Improve jail leadership development and training practices, make nurses into advocates and help inmates and their families navigate the criminal justice system.
4. Improve Custody Health training and advanced correctional officer awareness training, particularly in crisis intervention and de-escalation practices.
5. Increase staffing where needed.
6. Increase Custody Health staffing and add specializations where needed.

### New Positions

The Santa Clara Sheriff's Office has added more than 100 custody and health services positions since FY15 to improve jail operations, staff safety, inmate well-being, oversight, reporting and organizational accountability. They also increased staff recruitment, improved training programs and implemented professional development for supervisors. All show the financial commitment to staffing by the Board of Supervisors.

#### New Custody and Health Services Positions 2015-Current

Team/Unit	Position	#
Professional Compliance Unit	Correctional Lieutenant	1
	Correctional Sergeant	2
	Correctional Deputy	3
Office of Operational Standards and Inspection	Correctional Deputy	5
	Clerk	1
Internal Affairs Unit	Sheriff Sergeant	3
	Management Analyst	1
Jail Investigative Unit	Sheriff Sergeant (reorganized)	4
	Deputy Sheriff	5
Grievance Unit	Correctional Lieutenant	1
	Sr Management Analyst	2
	Management Analyst	2
Classification Unit	Correctional Captain for Jail Transition Unit	1
	Correctional Lieutenant	1
	Correctional Sergeant	1

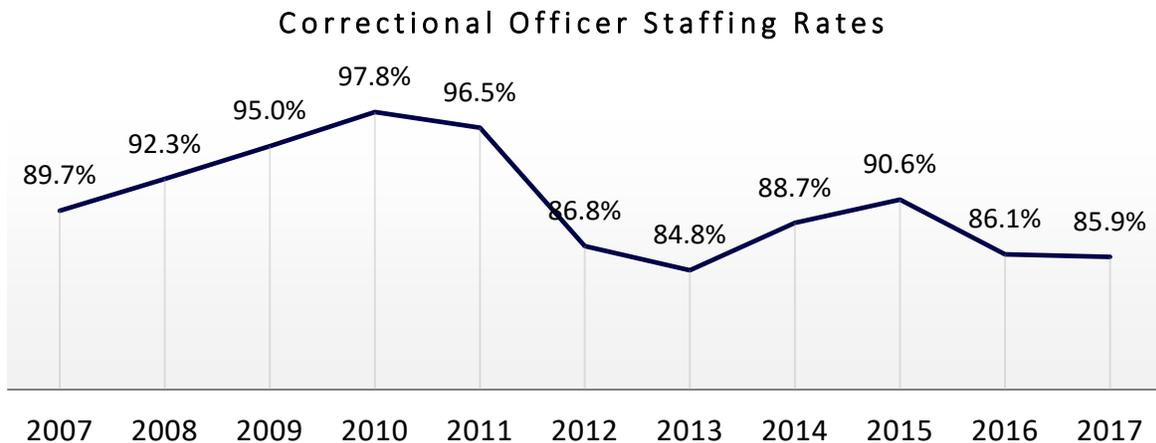
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Team/Unit	Position	#
Programming and Discharge Planning	Rehabilitation Officer	6
	Sr Management Analyst	1
Multi Support Team	Correctional Sergeant	1
	Correctional Deputy	10
Custody Health Services	Multi-disciplinary healthcare and support staff	59
	Dentist	1
	Dental Assistant	1
	Psychiatrist	1
	Psychiatric Social Worker II	1
	Clinical Nurse III	1
	Hospital Services Assistant	1
System support	IS Manager II	1
	IS Analyst II	1
	IS Technician III	1
	Staff Developer	1

### Staffing Levels

While authorized positions have increased over time, vacancies in those positions have effectively eliminated gains. There were less working deputies in 2016 than eight of the prior ten years and, while there was a significant increase in *authorized* staffing in 2017, there was still no significant operational increase. The average staffing level for the jail from 2007 to 2016 was 631 officers, and in 2017 the jail had an annual average of 649 officers, or only eighteen more employees.



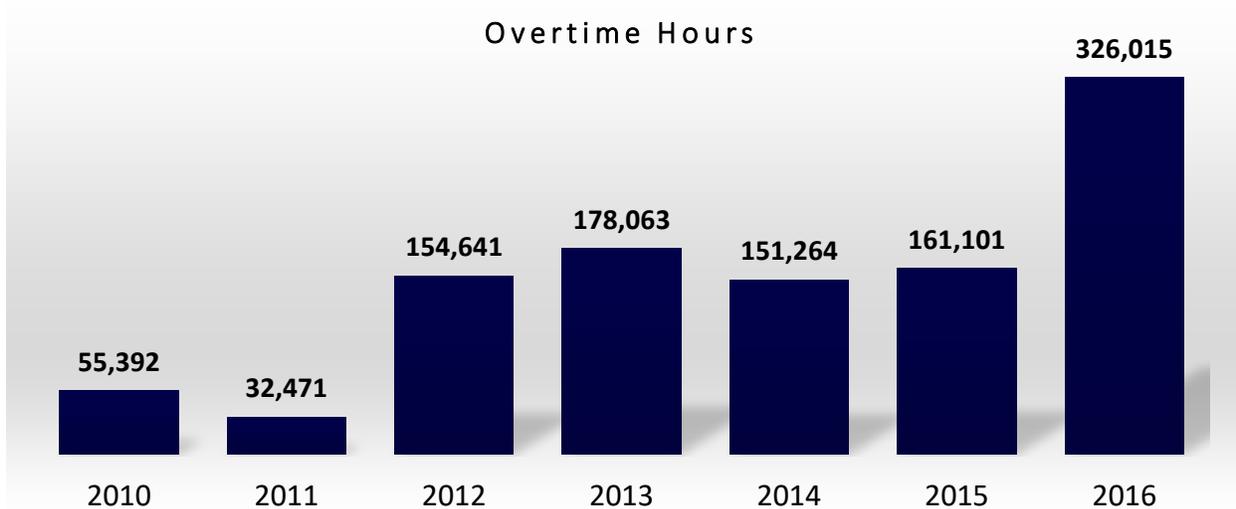
2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Authorized Correctional Deputies (average for the year)										
688	688	691	686	669	690	708	708	722	716	755
Vacancies										
71	53	34	15	24	91	108	80	68	104	106

### Changing Job Expectations

The actual positions in the jail have not kept up with the increased demands of the past decade, and especially the past two years. Increased supervision of inmates, increased violence, increased grievances, more administrative duties and expectations of more interactions with inmates have all added to workloads already straining the current staff.

In interviews with deputies, the improvement in staffing was one of the most noticed and appreciated positive trends, but many thought even more staffing would be critical to run the jail with these new expectations, especially increased out-of-cell time.

The dynamic of operational staffing and new expectations is contributing to high overtime costs. The jail is currently operating with mandatory overtime shifts which is leading to poor morale in many cases. Additionally, the amount of overtime being used is probably an inefficient use of available resources. The sheriff and county leadership are considering a new staffing analysis which should be able to determine a more effective balance of new positions and overtime.



### Academy Training

Training for jail officers is a blend between knowledge and skills, and the academy training currently includes blocks on suicide prevention, mental health, interpersonal communications, use of force policies, the Americans with Disabilities Act, LGBTQI matters, implicit bias, the Prison Rape Elimination Act, de-escalation and the full 40-hour Crisis Intervention Training course. Much emphasis has been added to preventing violence and increasing awareness of behaviors that may cause conflict in the jail. Few other places emphasize these sections of academy training as much as Santa Clara County does. The newly hired employees who we interviewed generally spoke well of the academy training. One even described it as “intense”.

### In-Service Training

In-service training has continued at a reasonable rate, with a slight increase in overall hours over the past decade. The training on the new use of force policy is probably the most significant in-service training accomplishment, but there has also been topics like the new body-worn camera policy and procedures. All of these supplement the ongoing basic requirements that come each year. As the staff stabilizes, training should seek to accelerate the desired positive cultural changes in the jail.

Staff Training (thousands of hours)



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## JAIL CULTURE AND ENVIRONMENT

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The main goal of any jail’s day-to-day operation is to have a safe, positive and healthy environment where inmates are encouraged to act pro-socially and to abide by rules and requests without conflict. That goal is significantly influenced by the human interaction between staff and inmates and between the inmates themselves. The sheriff and everyone else involved in the reforms recognize that staff and inmate attitudes will affect violence, uses of force,

grievances, and just about every other aspect of daily life in the jail. Therefore, the key question should really be, “What is the culture like in the jail now?”

Many perceive that the jail had a culture of violence. There are past stories that include “elevator rides” and beatings of inmates by staff. We will never know the complete truth about those, but the issue at hand is to understand today’s culture, what needs to change and how can that change occur. From the reform process, many culture changes were identified. They include [paraphrased – see Appendix A for current status]:

1. Improve interactions and programs to ensure a positive and safe environment for both inmates and staff.
2. Triage and prioritize IA investigations.
3. Use data and information systems to strategically plan, then share the information with others.
4. Create a professional development plan for correctional officers and improve the promotional process to select the most qualified supervisors. Ensure supervisors can share ideas and concerns and ensure they are focused on supervising and interacting with staff.
5. Develop policies and procedures that enhance communication about the policies and how to carry them out, especially higher priority matters. Improve the continuity of health/mental health care to inmates being discharged. Clean hazardous materials. Address the needs of the mentally ill.

### **Stakeholder Interviews**

Interviews with a wide variety of stakeholders, reveal that there is a recognition of progress, but these statements are representative of the concerns that remain:

- *The political environment makes it difficult to focus on priorities.* [sheriff employee]
- *Influences are running the jail.* [sheriff employee]
- *The sheriff’s priorities are not clear. She needs to tell us what they are.* [stakeholder]
- *The intention of the [sheriff’s] administration hasn’t filtered down.*
- *Staff feel unsafe* [both sheriff employee’s and stakeholders]
- *The grievance system is better, but the biggest problem is medical grievances. Some medical staff are unresponsive, and even rude.* [stakeholder]
- *Inmates need to know how to succeed. That’s not communicated to them.* [stakeholder]
- *The climate has not changed much. There is still retribution and activities are stopped and interrupted because of poor scheduling/planning.* [stakeholder]

However, the majority of respondents praised Sheriff Smith for the significant and positive changes that have happened. Staffing and training has improved, new policies have been

adopted, procedures such as out-of-cell time have changed, grievance procedures are better, etc. Some of the positive responses from interviews were:

- *The sheriff has brought strong leadership and motivation to change. The sheriff gets things done. [sheriff employee]*
- *There were lots of personality issues at the top [in the former DOC]. Currently, upper management is cohesive. [sheriff employee]*
- *We have clear priorities and fundamentals today. [sheriff employee]*
- *There are a younger and fresher population of employees. This is good for us. [sheriff employee]*
- *We didn't have the resources to provide mental health services. Out of tragedy comes opportunity. Now, there are ample services. Now, there is an emphasis on services, positive activities, reentry and preparation for reintegration. Staff communicates better. The relationship between staff and inmates is much better and staff understand the positive mission of the jail. Successful staff make successful inmates. [sheriff employee]*
- *The sheriff is working hard to fix the problems. She is being proactive and we need to help her get what needs done, done faster. [stakeholder]*
- *The [sheriff's] department is taking things seriously. Carl [Neusel] is doing a good job. There's been a sea change of attitude with so much more focus. We now need to figure out if the money being spent is being used effectively. [stakeholder]*
- *The grievance system is better. It is the best improvement so far. The administration knows what they need to do to make it the best and that's good. [stakeholder]*
- *There are half the number of issues with staff conduct than the year prior. Staff use of force and aggression is way down, but there are still bad attitudes. [stakeholder]*
- *There's a shift in the culture there. Staff are welcome and accepting of doing the right thing because they want to change. There are really sincere efforts. [stakeholder]*

### **Inmate Interviews**

We also held conversations and conducted a survey with the Inmate Advisory Councils of the Main Jail and Elmwood. The Inmate Advisory Councils were established by the sheriff to improve communication from the inmates to jail administration. Their verbal complaints included:

- *There is a lack of follow-up from the Inmate Advisory Council meetings. They have expectations from the meetings, but then things don't change.*
- *The Inmate Rule Book is not helpful. It's outdated [note that this was a frequent comment by jail staff as well].*
- *Medical services require a long wait and there is little communication.*
- *Classification should be more interactive with the inmate.*

- *The grievance system is slow and not responsive.*
- *Resource officers should be more available in program dorms at Elmwood [this was a compliment to their value].*
- *The surveillance cameras help reduce problems because they know they are being recorded.*
- *The coordination of programs and the inmates attending them should be better. There are scheduling conflicts in the current system that prevent inmates from attending the programs they should.*
- *More inmates should have access to programs, but inmates who are not in programs should not be mixed with those who are as it creates a lack of trust and sharing.*

The inmates also had compliments. Those included:

- *Programming, or out-of-cell, time has improved a lot and the jail staffing increases have helped.*
- *Some jail staff really go the extra mile when they don't have to.*
- *Mental health care is much better. The Multi-Service Deputies have really helped.*
- *The reclassification of inmates to lower levels of security has helped in many ways.*

There was unanimous agreement that staff treat inmates with more respect than in years past.

### **Staff Interviews**

Jail staff, of course, have an important voice in portraying and judging what the culture of the jail is like and what the working conditions are for them. Just as with the inmates, if jail staff do not feel safe, they will avoid contact and be more guarded in their actions and interactions. Jails operate well when staff feel physically safe and emotionally supported.

We interviewed 103 sheriff's employees with the particular focus of asking what was going well and what was not. While a more thorough and statistically valid employee survey is planned in 2018, the number and consistency of the responses provides confidence that the major points of appreciation and concern are legitimate across the jail employee population.

The most significant points of appreciation and concern often matched those of the inmates, but from a different perspective. For example, the outdated Inmate Rule book was mentioned by both inmates and employees as a problem and that it creates confusion for everyone.

### ***What's not going well?***

The most frequently mentioned areas that employees perceived were not going well were, in order:

*Staffing and safety*

Employees believe the jail did not have an adequate staffing level prior to the implementation of reforms to meet all job expectations, particularly out-of-cell time. There are now several *new* expectations for programming, privileges and services but staffing has not kept up with the demands. As noted below, employees did recognize and appreciate that staffing is increasing, but state that the demands for time continue to outpace the personnel resources of the jail. This results in two primary issues:

1. One employee often must complete tasks that require two deputies. A common example is that one deputy is expected to maintain the security of a housing area while also overseeing medication distribution. The divided attention keeps them from doing either task well.
2. The jail operates with mandatory overtime to meet these new expectations. While a few, often younger, employees describe the overtime as a benefit, the majority of employees feel it is a burden and staff wellness issue that impacts their personal lives.

Overall, many employees had the message that there are too many things to do and not enough people to do them.

#### *Inmate behavior management*

A close second to staffing and safety was concern over the lack of control and consequences, particularly with threatening or disruptive inmate behavior. Employees frequently expressed frustration about their inability to immediately address threatening behavior by inmates, and that they lacked the authority to impose sanctions for misconduct. They expressed concerns for staff safety because many employees reported increasing aggression by inmates who do not receive punishment. There is a widespread sense that there is no effective inmate discipline system in the jail for anything other than the most serious offenses.

Employees are also frustrated with their perception that all inmates receive the same privileges, regardless of their individual behaviors. In many housing areas, the jail provides unusual privileges to inmates such as popcorn, soda and a movie on occasion. The employees are generally not against providing additional privileges to inmates, but almost unanimously feel those should be earned through prosocial and compliant behavior. Employees understand that they should not impose group punishment but feel a lack of support when all of the inmates in a housing area get popcorn, movies and other optional privileges, even if some have been disruptive, assaultive or otherwise unruly earlier that day.

A third aspect of concern is that inmates regularly manipulate the system by submitting grievances. Many staff believe that the supervision and administration ranks have become so sensitive to grievances that inmates have learned to submit mass complaints when they want something changed. The perception is that this has led to additional privileges, staff changes and rule compromise just to keep the inmates from filing more grievances.

These three aspects appear to have a compounding effect on morale. First, the employees perceive an increasing level of threatening behavior by inmates and feel disempowered to discipline them for it. Then, they feel that those aggressive inmates are rewarded by the additional entertainment privileges. And if inmates don't get what they want automatically, they submit grievances until changes are made in their favor. It was common to hear employees say something to the effect of, "Everything is for inmates, nothing for officers."

### *Communication*

The third most prevalent area of concern for employees is communication, both formal and informal. Formal communication issues include complaints about outdated policies, procedures, inmate rule books and similar materials. Anecdotally, employees said many policy changes occur via memo, and they often conflict with prior written policy creating confusion for employees. If true, this is a valid concern and should be addressed immediately.

Informal communication issues were even more frustrating for most employees. Many changes that do not rise to the level of the policy manual are inconsistently communicated between facilities, supervisors and shift operations, all of which creates unclear expectations. It is often difficult to update written policies and procedures when so much change is happening so quickly, and especially in an organization as complex as the Sheriff's Office, but more attention to formal directives and policy updates would likely lessen the confusion.

Another gap in communication is that employees don't always understand *why* they are being asked to do something. People respond better when they understand the rationale behind changes, and employees expressed frustration that they did not know why the changes are happening. The lack of information sometimes allowed for harmful speculation. Employees often suspected that there were legal/litigation reason for the changes, but did not know one way or another.

Information gaps up, down and across any organization are challenging to eliminate, and the Sheriff's Office is no exception. Better systems of communication that ensure information is passed down the organization would be of great benefit to the employees. The sheriff has begun to address these concerns by bringing twenty-four of the top leaders in the jail together to create a plan for improving communication. The first steps of that plan center on educating the jail staff on the reforms, their value and what to expect in the future. Additionally, she is bringing together all of the first and second line supervisors in the jail to identify needs and gaps at the line level, then develop plans to improve those issues.

### ***What's going well?***

There are many good things happening in the jail and most employees recognize and appreciate the efforts of the sheriff and the county. In response to the question, "What is going well" the most frequent answers, in order, were as follows:

### *Staffing*

Staffing was the most frequent concern and in an interesting contrast, it was also the most appreciated change. Employees recognized and appreciated the sheriff's efforts and county's funding of new deputy positions. Almost forty new positions were authorized in 2017 and, with also filling vacancies, the jail has a noticeably better level of staffing.

The apparent dichotomy with staffing as the greatest complaint and greatest compliment can be summed up by phrases like, "We're on the right track." Staff are greatly encouraged by the new positions and recognize that it takes time to hire people, get them through the academy and successfully complete the on-the-job training program. Many staff voiced commitment to continue overtime and do what is needed until the new hires could work independently.

### *Improvement in inmate services*

Some may be surprised that the second most frequent point of positive recognition was the improvement in services and conditions for inmates. Again, the question posed was, "What is going well?" and we anticipated answers that would be about the employees themselves. The frequency of responses focused on jail conditions for inmates demonstrates the quality of people in the Sheriff's Office. For example:

- *There is more compassion. More listening.* [referring to staff]
- *Inmate care is improving.*
- *There are better mattresses for inmates and the mentally ill inmates have a lot better care.*
- *Inmates have more access to programs.*
- *8A [the most severe mental health unit] is going well.*
- *Inmates are heard more.*
- *[We've] learned to be more patient.*
- *The reforms are good. We focus more on the needs of the inmates. That didn't happen well in the past.*

This may be the most promising indicator of the jail culture today. While we don't have data for a comparison to the past, the nature of these comments suggests a change from previous beliefs. Cultural change comes about slowly and Sheriff Smith has demonstrated her commitment to ensuring the jail is a safe and positive environment. Employees like this will help her vision become reality.

### *Technology improvements*

Audio/video technology was the third most commented area of positive impact, but it came with a few harmful misperceptions. Employees appreciate the body worn cameras and how they help document facts so there are less false allegations against staff. However, some employees were frustrated that the enforcement side of the agency may review camera footage before writing a

report and the jail side cannot. Most expressed disdain with the inequity of the policy rather than whether one policy was right or wrong.

Employees also appreciate the fixed cameras in housing areas and hallways to allow better monitoring and documentation of inmate actions. They create safer environments for everyone and employees appreciate that their actions and words will be documented if a false allegation is made. However, there was a common belief that the cameras above the officer’s station were there simply to catch staff doing something wrong. Of particular concern was the notion that “they” listen into private conversations between staff members. Not only do those employees feel that’s unwarranted and offensive, but they also say it inhibits conversations about personal challenges and staff wellness matters that are often shared between coworkers.



VIDEO CAMERAS ABOVE WORK STATION

### Employee Survey Pilot

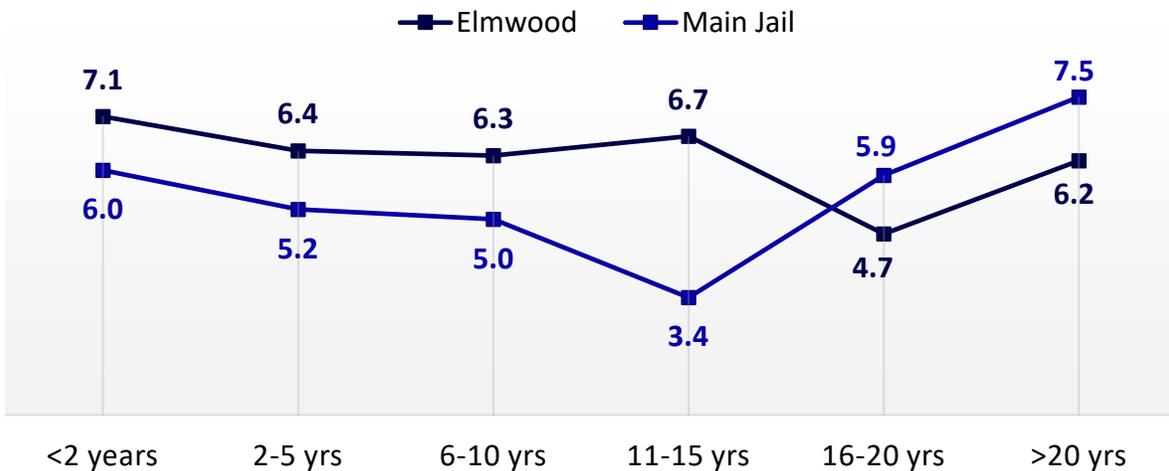
During interviews with staff, we also offered the opportunity for them to take a simple anonymous survey. We sought to assess four basic perceptions that contribute to organizational culture. The first three questions asked for a response from one to ten, ten being the highest. The questions were:

1. How would you rate the jail as a place to work?
2. How well trained and prepared are you to do this job?
3. How well does your supervisor support you?



One of the most fundamental measures of culture is to ask employees how they would rate the jail as a place to work. Two data points most stand out: The lowest and highest rating of the job workplace come from those employees who likely were former Department of Correction employees. That era was between seven and thirty years ago. It is also interesting to note that the lowest and highest ratings both came from the Main Jail staff, although there were only four employees in the Main Jail who took the survey and had more than twenty years of service (highest score = 7.5) and only five who had served eleven to fifteen years (lowest score = 3.4). The most frequent length of service was between two and five years.

How would you rate the jail as a place to work?



In 2016, the author led an assessment of the jail for the US Department of Justice, National Institute of Corrections. Much of that assessment was spent speaking with staff, watching their interactions and making observations. While the culture was not bad then, we recommended some changes to improve it. Sheriff Smith adopted some of those recommendations and along with others, there is a noticeable change in the culture between that first assessment and today. Staff are more cohesive and seem to generally have a more positive outlook compared to 2016. If leadership addresses the negative influences in the jail, it should continue to get better and eventually we believe it can be a strong and positive culture with high staff satisfaction.

That said, people do not really change their personalities. If expectations are clear, communication is adequate, and procedures are aligned with staffing, the jail should operate very well. If there are employees who are not contributing to those positive outcomes, they may not be a resource the agency should continue to invest in.

## STAFF ACCOUNTABILITY

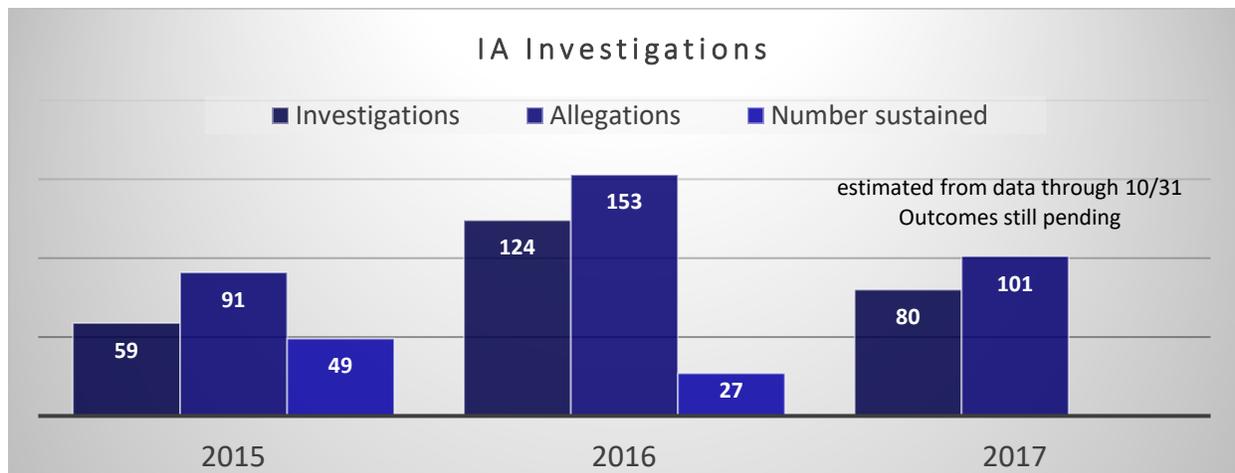
Individual accountability is a difficult balance in any organization. One of the most important motivators for employees is having some autonomy over their work – the ability to make an individual difference and contribute in a way that is personally meaningful. At the same time, we want deputies to have very similar expectations and practices when working their shifts and dealing with inmates. As discussed previously in the use of force section, we believe one of the root problems throughout the past two decades is not that there was a culture of violence, but rather when an employee was unnecessarily forceful, there was a lack of accountability addressing that behavior. This is not an uncommon problem in law enforcement organizations, especially those with strong unions.

One stakeholder close to the jail said, “The jail is not dealing with negativity and not firing poor performers. If people don’t behave well in the dorms, they get rewarded by being sent to control.” We believe this is changing with the efforts Sheriff Smith has underway to unify expectations and accountability.

During the assessment phase, there were recommendations to increase accountability. They are: [paraphrased – see Appendix A for current status]:

1. The Internal Affairs unit should investigate all complaints of misconduct.
2. Implement an employee Early Warning System.
3. Ensure dental care is timely.
4. Public reports about personnel actions. Establish a discipline matrix.
5. Update the employee discipline policy.

After 2015, there was been a significant focus on staff accountability as evidenced by the number and results of internal affairs investigations. Whereas practices did not change in 2017, the number of investigations dropped, suggesting that the reforms are having their intended result of less staff misconduct.



In the employee survey, the final question was broad, but we were interested to see what the reported perception of accountability is by the employees. The question was, “The SCCS [Santa Clara County Sheriff] does not tolerate excessive force, inmate abuse or other misconduct” and the respondents were asked to choose from agree, mostly agree, mostly disagree or disagree as their answer. One hundred twenty-one employees responded with the following:

Agree:	102
Mostly agree:	16
Mostly disagree:	3

The three responses that voiced disagreement did not add any more explanation of their answers in the survey comments. While this survey was not meant to be scientifically valid, the 84% who responded that they “agree” is a positive indicator that employees feel they would be held accountable for misconduct.

Sheriff Smith has arranged for leadership development for all ranking jail staff. Those sessions, especially at the first line supervisor level, will focus heavily on developing accountability for minor misconduct to prevent the emergence of more serious misconduct.

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## JAIL FACILITIES

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As with most jails, the sheriff only has input, but no authority or control, over building construction and improvements. To date, none of the facility reforms have been completed; however, all of these are underway with substantial progress on most of them.

The reforms that have been adopted are: [paraphrased – see Appendix A for current status]:

1. Ensure medical and mental health screenings are private. Create specialized cells for specialized needs in intake and medical and increase the number of medical beds at Elmwood.
2. Improve video surveillance systems.
3. Expand the dental clinic and enhance the system of accessing and operating it.
4. Modernize the Jail Management System.
5. Improve and maintain the physical jail facilities for inmates and staff and ensure inmates maintain cleanliness.

## CONCLUSION

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Criminal justice reform is a popular topic across the nation. Litigation, advocacy, social responsibility, crime reduction and cost control are just some of the reasons behind many of the jail reforms that are happening. But whatever the motivation, we are seeing changes in jail practices come at an unprecedented rate. From the decision about who gets booked into jail, to what conditions they will live in and how they will be treated, to ultimately what can be done to keep them from coming back are all part of the interest in changing the way jails operate.

Part of the criminal justice reform is also mental health reform. As our social policies changed and there were less mentally ill placed into hospitals, we saw that more mentally ill were placed into jails. Unfortunately, most experts agree that the mentally ill are now being institutionalized in jails more than ever. These inmates may have technically committed a crime, but almost everyone agrees that jail is not the place for them. Unfortunately, the most common response is, "But there isn't anywhere else."

Santa Clara County faced these challenges and others, but their situation was also compounded by both economic decline and organizational misalignment as two agencies were fused into one. Whatever may or may not have prevented the tragic death at the hands of three deputies is hard to say, but what we do know is that the Santa Clara County Sheriff's Office has been listening, planning and making reforms at a highly-commendable pace ever since. To embrace 623 recommendations and have the majority of them completed within two years, is almost unheard of for an agency of this size. Sheriff Laurie Smith and her staff should be recognized for their current success and ongoing commitment to positive changes in the jail. While there is still much to be done, the vast majority of people we spoke with recognized how well the reforms are going and how much work it has taken to get here.

## APPENDIX A

Categories: F = Facility, I = Inmate, S = Staffing

Completed in blue	Category	Group #	Recommendation	Approved Budget
<b>Suicide Prevention</b>				<b>\$3,234,000</b>
	F	SUI 1	Ensure that inmates on suicide precautions are housed in designated suicide-resistant and protrusion-free cells.	\$1,384,000
	F	SUI 2	Install audio and video systems in suicide-resistant cells to monitor for suicide attempts.	
	F	SUI 3	Modify doors and windows of suicide-resistant cells to minimize protrusions, increase sunlight and improve visibility for staff.	\$1,600,000
	F	SUI 4	Adjust lighting and electricity in suicide-resistant cells to make the fixtures tamper-proof and improve visibility for staff and inmates.	
	F	SUI 5	Ensure reasonable privacy in the intake booking area during Custody Health screenings and assessments.	\$250,000
	I	SUI 6	Implement a Suicide Risk Assessment for inmates referred to Correctional Health Services (CHS) for possible suicidal behavior.	
	I	SUI 7	Develop a suicide prevention policy to enhance communication between suicidal inmates and staff.	
	I	SUI 8	Develop a suicide precaution triage system for mental health referrals.	
	S	SUI 9	Train staff on suicide risk factors, warning signs, prevention, risk assessment and treatment plans.	
	I	SUI 10	Establish a multi-disciplinary death review committee that includes custody and health staff.	
<b>Use of Force</b>				<b>\$750,336</b>
	I	UOF 1	Establish an internal and multi-disciplinary review committee for UOF incidents.	

Completed			Recommendation	Approved
in blue	Category	Group #		Budget
	S	UOF 2	Develop and implement training on the revised UOF policy for all staff and managers.	\$750,336
	I	UOF 3	Revise the UOF policy to increase transparency, improve accountability and standardize reporting requirements.	
	I	UOF 4	Implement a system to track UOF investigations and support timely review and evaluation of incidents.	
	S	UOF 5	Create a specialized response team to ensure the timely investigation of significant UOF incidents. <b>(Jail Investigative Unit)</b>	

Inmate Classification				\$2,683,275
	I	CLS 1	Implement a statistically valid, reliable, evidenced-based classification system.	\$55,000
	I	CLS 2	Classify all new inmates using the new initial classification form, notify them of their housing level and provide an appeal process.	
	I	CLS 3	Implement a classification system validated by gender and develop a policy to include gender-specific information.	
	F	CLS 4	Reduce restrictive housing and increase time out of cells for all inmates within their security level.	
	F	CLS 5	Move low security, pre-trial inmates to Elmwood and evaluate sites for inmates in protective custody.	
	S	CLS 6	Use a document control system to ensure that interim changes are explicitly tied to the policies and procedures they affect. <b>(Professional Compliance Unit; Operational Standards and Inspection Unit)</b>	\$1,883,039
	S	CLS 7	Staff to manage the classification system, conduct reclassification interviews and evaluate overrides. <b>(Classification Unit)</b>	\$745,236

Completed in blue	Category	Group #	Recommendation	Approved Budget
<b>External Oversight, Reporting and Organizational Accountability</b>				<b>\$2,500,000</b>
	I	OVR 1	Establish independent oversight for the Department of Correction and Sheriff's Office that reports to the Board of Supervisors.	\$2,500,000
	I	OVR 2	Establish a nine member volunteer, civilian commission to provide reports on statistics and complaints.	
	I	OVR 3	Establish an ombudsman office to provide neutral, outside investigation of complaints and concerns.	
	I	OVR 4	Evaluate leadership and oversight models for the Department of Correction with input from experts and stakeholders.	
	I	OVR 5	Ensure recommendations regarding PREA and ADA compliance are implemented and communicated in a timely manner.	
	I	OVR 6	Ensure recommendations are implemented and maintained through monitoring, audits, policy changes and reporting.	

<b>Americans with Disabilities (ADA) Facility and Programs</b>				<b>\$14,550,000</b>
	I	ADA 1	Provide programming that accommodates inmates' capacity for learning, linguistic needs, and ADA requirements.	\$14,550,000
	I	ADA 2	Determine mental health housing, ADA accommodation, protective custody, admin segregation and possible program needs at intake.	
	I	ADA 3	Revise policies, procedures, practices, forms and inmate handbook to ensure compliance with current ADA mandates.	
	F	ADA 4	Update jail facilities to meet ADA requirements and increase program access for inmates with disabilities.	

Completed			Recommendation	Approved Budget
in blue	Category	Group #		
	I	ADA 5	Implement a tracking system to ensure inmates with disabilities receive reasonable accommodations and equal program access.	
	S	ADA 6	Provide comprehensive training on ADA for all staff, and on the ADA tracking system for staff users.	

Programs				\$21,275,000
	S	PGM 1	Develop programs for inmates with mental health issues to improve in custody care and their transition at release. <b>(Multi Support Teams)</b>	\$20,700,000
	I	PGM 2	Implement job development and education programs, and leverage job readiness, apprenticeship and training opportunities.	\$575,000
	I	PGM 3	Provide programs to reduce recidivism and develop discharge plans that support re-entry into the community.	
	I	PGM 4	Expand in custody programs, volunteer and chaplaincy opportunities, and access to programs for all housing units and security levels.	

Grievances				\$1,661,934
	S	GRV 1	Revise the grievance policy and related forms, and train custody staff on procedure and policy changes. <b>(Grievance Unit)</b>	\$840,470
	I	GRV 2	Implement a grievance tracking system, install secure grievance collection boxes, and create an electronic grievance form for tablets.	
	I	GRV 3	Post information on PREA reporting and update the orientation video and inmate rule book.	
	S	GRV 4	Assign all complaints to Internal Affairs for review and investigation if needed. <b>(Internal Affairs Unit)</b>	\$821,464

Completed in blue	Category	Group #	Recommendation	Approved Budget
	I	GRV 5	Ensure that regular reports on grievances are available to the department, the public and oversight bodies.	

Inmate Services				\$484,202
	I	ISV 1	Ensure that phone call costs are reasonable and evaluate the number of phones available to inmates in each housing unit.	\$484,202
	I	ISV 2	Expand visiting hours and implement a user-friendly visitation and cancellation system that provides more flexibility for visitors.	
	I	ISV 3	Review commissary pricing and implementation (contract versus in-house) and ensure commissions go to inmate programs.	
	I	ISV 4	Clarify the role and responsibilities of the Inmate Welfare Fund Committee (IWFC) and actively recruit more community members.	
	I	ISV 5	Update the inmate rule book and orientation video to better educate inmates on expected behavior, rights and responsibilities.	
	I	ISV 6	Explore new ways to access to programs and communicate with inmates, friends and families. <b>(Inmate Advisory Councils)</b>	

Hiring, Staffing and Training				\$2,747,625
	S	HST 1	Raise the minimum education requirements for custody deputies and increase staff to conduct backgrounds, hiring and polygraphs.	\$620,000
	S	HST 2	Conduct staffing studies to ensure safety and security of staff and identify appropriate supervisor to staff ratios.	

Completed in blue	Category	Group #	Recommendation	Approved Budget
	S	HST 3	Engage in opportunities to learn about nationwide jail operations through information sharing and educational seminars.	
	S	HST 4	Establish a comprehensive training program on critical and trending topics (e.g. policy and procedure, trauma-informed care, PREA, etc.)	\$215,000
	S	HST 5	Reorganize and improve custody staffing for facilities and specialty teams.	
	S	HST 6	Increase staffing for custody healthcare positions including dental care, substance abuse, mental health and intake triage.	\$1,912,625

Jail Culture and Environment				\$13,976,419
	S	JCE 1	Shift organizational philosophy to best practices that promote a safe working and living environment for staff and inmates.	\$620,000
	S	JCE 2	Update the policy and procedures for Internal Affairs investigations of serious allegations and establish a conflict of interest policy.	
	S	JCE 3	Develop and use data and information systems to inform and communicate strategic planning goals and outcomes.	\$13,356,419
	S	JCE 4	Create a promotional process and professional development program for sergeants. Re-evaluate their roles and responsibilities.	
	S	JCE 5	Develop and communicate policies and procedures that support a positive jail culture ad environment.	

Staff Accountability				included above
	S	STF 1	Shift all investigations of jail-related complaints and allegations o misconduct to the Internal Affairs Unit.	

Completed			Recommendation	Approved Budget
in blue	Category	Group #		
	S	STF 2	Implement an Early Warning System to proactively address, conduct, training or policy issues.	
	S	STF 3	Develop and monitor a dental program with treatment timelines and minimum standards of care.	
	S	STF 4	Communicate regular reports of staff disciplinary actions identifying the level or discipline enacted for specific policy violations.	
	S	STF 5	Update policies on employee discipline, gender and mental health issues. Reinitiate squad meetings.	

Jail Facilities				included above
F	JAF 1	Reconfigure the Main Jail North Intake area, open an Assessment and Observation Center, and improve Elmwood's medical facility.		
F	JAF 2	Increase and modernize the video surveillance system throughout all jail facilities.		
F	JAF 3	Expand clinic size and treatment hours for the jail dental office.		
F	JAF 4	Implement a new Jail Management System that tracks and reports booking and release, programs and inmate management.		
F	JAF 5	Move inmates from the Main Jail to Elmwood, replace Main Jail South, and establish dedicated maintenance teams.		

Inmate Healthcare				included above
I	HLC 1	Improve medication administration, monitor antipsychotic use, and provide a summary of care to inmates at release.		

Completed			Recommendation	Approved
in blue	Category	Group #		Budget
	I	HLC 2	Broaden the scope of dental services for longer term inmates to include interceptive, routine rehabilitative and special needs care.	
	I	HLC 3	Implement the recommendations of the <i>Jail Diversion and Behavioral Health Subcommittee of the Re-entry Network</i> .	
	S	HLC 4	Add a professional healthcare administrator and director or mental health services to monitor and coordinate health services.	
	I	HLC 5	Review sick call, white card and refusal of care processes and forms to ensure privacy, timely response and inmate understanding.	
	I	HLC 6	Review intake procedures and facilities for seriously mentally ill, acutely intoxicated and behaviorally challenged inmates.	
	I	HLC 7	Review and refine policies for supervision, training, medical checks and clinical oversight of inmates being restrained.	
	J	HLC 8	Implement an integrated system to maintain medical and mental health records.	
	I	HLC 9	Provide adequate urgent care services, timely access to healthcare, and notification to inmates about their medical appointments.	
	I	HLC 10	Improve services to inmates with serious mental health issues (i.e. increased group therapy and out-of-cell time, random cell checks)	